

GOVERNMENT OF INDIA
MINISTRY OF LAW

THE
UNREPEALED CENTRAL ACTS

WITH
CHRONOLOGICAL TABLE AND INDEX

VOLUME I

From 1835 to 1871, both inclusive

(SECOND EDITION)



सत्यमेव जयते

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PREFACE.

This volume has been prepared on the same lines as the previous edition published by the Reforms Office in 1938. The Acts included in this volume have been printed as modified upto the 1st February, 1950.

K. V. K. SUNDARAM, I.C.S.,

Secretary, Ministry of Law,

Government of India.

NEW DELHI,

The 1st February, 1951.

LIST OF ABBREVIATIONS USED.

A. O. 1937	.	.	.	.	for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, and the Government of India (Adaptation of Indian Laws) Amendment Order, 1940.
A. O. 1947	.	.	.	.	„ India (Adaptation of Existing Indian Laws) Order, 1947.
A. O. 1948	.	.	.	.	„ Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
A. O. 1950	.	.	.	.	„ Adaptation of Laws Order, 1950.
B. & O.	.	.	.	.	„ Bihar and Orissa.
Ben.	.	.	.	.	„ Bengal.
Bom.	.	.	.	.	„ Bombay.
Ch.	.	.	.	.	„ Chapter.
Cl.	.	.	.	.	„ Clause.
Coll. Stat.	.	.	.	.	„ Collection of Statutes relating to India.
C. P.	.	.	.	.	„ Central Provinces.
Gen. R. & O.	.	.	.	.	„ General Statutory Rules and Orders.
G. G. in C.	.	.	.	.	„ Governor General in Council.
G. of I.	.	.	.	.	„ Government of India.
Govt.	.	.	.	.	„ Government.
Ins.	.	.	.	.	„ Inserted.
L. G.	.	.	.	.	„ Local Government.
Mad.	.	.	.	.	„ Madras.
Pt.	.	.	.	.	„ Part.
Pun.	.	.	.	.	„ Punjab.
Reg.	.	.	.	.	„ Regulation.
Rep.	.	.	.	.	„ Repealed.
S.	.	.	.	.	„ Section.
Sch.	.	.	.	.	„ Schedule.
Subs.	.	.	.	.	„ Substituted.
U. P.	.	.	.	.	„ United Provinces.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS,
1835-1871.

1 Year.	2 No.	3 Short title or Subject.	4 Page.
1835	XIX	The Dekkhan Assistant Agent's Appointment Act, 1835.	1
1836	X	The Bengal Indigo Contracts Act, 1836	2
	XXI	The Bengal Districts Act, 1836	3
1837	XXXVI	The Madras Public Property Malversation Act, 1837	4
1838	V	Bengal Bonded Warehouse	5
	XVI	The Bombay Courts of Adalat Act, 1838 . . .	14
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	XII	The Bengal Land Revenue Sales Act, 1841 . . .	Not printed. ²
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	XVII	Revenue Commissioners, Bombay	Not printed. ³
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1846	I	The Legal Practitioners Act, 1846	50
	III	Boundary-marks, Bombay	Not printed. ³
1847	I	Boundaries	Not printed. ³
	IX	The Bengal Alluvion and Diluvion Act, 1847 . .	52
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	XX	The Bengal Landholders' Attendance Act, 1848 .	56

¹ Relates to land-revenue.*See Mad. Code, Vol. I.*² Relates to land-revenue.*See B. & O. Code, Vol. I.*³ Practically obsolete.

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	XXXIV	The State Prisoners Act, 1850	73
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1851	VIII	The Indian Tolls Act, 1851	79
	XII	The Madras City Land Revenue Act, 1851 . .	Not printed. ³
1852	VIII	The Sheriffs' Fees Act, 1852	82
	XI	The Bombay Rent-free Estates Act, 1853 . .	Not printed. ⁴
	XXI	Deputy Collectors, Bombay	Not printed. ²
1853	VI	The Rent Recovery Act, 1853	Not printed. ⁵
	XI	The Shore Nuisances (Bombay and Kolaba) Act, 1853.	83
	XIX	The Recusant Witnesses Act, 1853	85
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	XXIV	The Malabar War-knives Act, 1854	89
	XXXI	The Conveyance of Land Act, 1854	89

¹ Relates to land-revenue. See Ben. Code, Vol. I.

² Practically obsolete.

³ Relates to land-revenue. See Mad. Code, Vol. I.

⁴ Relates to land-revenue. See Bom. Code, Vol. I.

⁵ Relates to rent. See Ben., Assam, B. & O. Codes.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1835-1871—*contd.*

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¹ Relates to land-revenue. See Ben. Code, Vol. I.

² Ceased to be in force with effect from 14th September, 1937. See notification No. 921, dated 13th September, 1937. Madras Gazette, 1937, Pt. I, p. 1582.

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¹ Practically obsolete.² Relates to land-revenue. See U. P. Code, Vol. I.

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THE UNREPEALED CENTRAL ACTS

VOLUME I.

[THE DEKKHAN ASSISTANT AGENT'S APPOINT- MENT ACT, 1835.]

ACT No. XIX OF 1835.

[9th November, 1835.]

Be it enacted, that it shall be competent for the ² [State Govern- Appointment
ment] of Bombay to appoint the Assistant Judge of the Zila Court and powers
of Puna to be Assistant to the Agent³ for Sardars in the Dekkhan ; of Assistant
Sardars in
Dekkhan.

and it shall be competent to the Agent for Sardars to refer to his
Assistant original suits against Sardars for amounts not exceeding five
thousand rupees ⁴ * * * ;

and every decree of the Assistant shall be open to an appeal to the
Agent within thirty days from the date of the decree ; and every
decision of the Agent on such appeal shall be open to a special appeal
⁴ * * to the ² [State Government], or to the Sadr Adalat, according
as the rank of the Sardar may subject him to the jurisdiction of either
authority : Provided that such last-mentioned appeal shall be brought
within ninety days after the date of the decree of the Agent.

⁵ [2. The provisions of the ⁶ Code of Civil Procedure relating to Procedure in
appeals to a High Court from decrees passed in appeal shall apply, so appeal to
State
far as may be, to appeals to the ² [State Government] under this Act.] Government.

¹ Short title given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).

² Subs. by the A.O. 1950 for "Provincial Government" which had been subs.
by the A.O. 1937 for "Governor in Council".

³ As to the Agent, see Bom. Reg. 29 of 1827, s. 4, clause first.

⁴ The words "and in the trial of such suits the Assistant shall follow the
same rules which are now applicable to the Agent" and the words and figures
"under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay
Code" rep. by the Repealing and Amending Act, 1891 (12 of 1891).

⁵ S. 2 ins. by the Amending Act, 1891 (12 of 1891).

⁶ See now the Code of Civil Procedure, 1908 (5 of 1908).

¹[THE BENGAL INDIGO CONTRACTS ACT, 1836.]

ACT No. X OF 1836.

[11th April, 1836.]

1. [Repeal of cl. 3 of s. 5 of Ben. Reg. VI of 1823.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

2. * * * Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause *Ninth*, section 3, ³Regulation VI, 1823, of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

3. * * * When a lawful contract shall have been made between a *raiyat* and another party, by which contract the *raiyat* shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the *raiyat* for the purpose of enabling the *raiyat* to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the *raiyat* to break such contract, the party who made the advance shall be entitled to proceed by civil action against the

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal and the former North-Western Provinces, except the Scheduled Districts.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division	Ditto. 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzapur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Bawar	Ditto 1879, Pt. I, p. 382.

The application of the Act is barred in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3(2).

² The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

³ The Bengal Indigo Contracts Regulation, 1823.

person who shall have so prevailed on the *raiyat*, as well as against the *raiyat*, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit:

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

Bar of suit for act done to recover debt or secure performance of lawful contract.

4. ¹* * * The Court trying any suit instituted under the provisions of ²Regulation VI of 1823, of the Bengal Code, or under the provisions of this Act shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

5. [Power to refer certain suits to a Principal Sadar Amin or Sadar Amin.] Rep. by the Repealing Act, 1868 (VIII of 1868).

³[THE BENGAL DISTRICTS ACT, 1836.] ACT No. XXI OF 1836.

[11th September, 1836.]

4 * * * It shall be lawful for ⁵[the State Government, by notification in the Official Gazette] to create new *zilas* in any part of ⁶[West Bengal] ⁷* * *.

Power to create new *zilas*.

¹ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874, (16 of 1874).

² The Bengal Indigo Contracts Regulation, 1823.

³ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

The Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal, except the Scheduled Districts.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in—

West Jalpaiguri and the Western Duars in the Jalpaiguri District

The districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum, in the Chota Nagpur Division.

See Gazette of India, 1881, Pt. I, p. 74.

Ditto 1881, Pt. I, p. 504.

It has also been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3.

⁴ Formal words rep. by the Repealing Act, 1874 (16 of 1874).

⁵ The original words, viz., "the G. G. in C., by an Order in Council" have been successively amended by the Amending Act, 1903 (1 of 1903), the Devolution Act, 1920 (38 of 1920), the A. O. 1937 and A. O. 1950 to read as above.

⁶ Sub. by the A. O. 1948 for "the Presidency of Fort William in Bengal".

⁷ The words "and to alter the limits of existing *zilas*" rep. by the Amending Act, 1903 (1 of 1903).

1 [THE MADRAS PUBLIC PROPERTY
MALVERSION ACT, 1837.]

ACT No. XXXVI OF 1837.

[20th November, 1837.]

Extension of jurisdiction of Collectors and their subordinates in cases of embezzlement, etc., to similar offences by persons of certain classes.

1. 2* * * The jurisdiction vested in Collectors, Subordinate Collectors and Assistant Collectors, by Regulation IX of 1822 and VII of 1828 of the Madras Code, in cases of embezzlement of public money, and of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall extend to cases of the embezzlement of any public property or the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property, by any person of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822.

Extension of enactments relating to embezzlement, etc., to similar offences by persons of certain classes.

2. 3* * 4* * All provisions of either of the said Regulations IX of 1822 and VII of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of public property whatever, by persons of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822: 5* * all provisions of either of those Regulations, which apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property whatever, by persons of any of the said classes.

¹ Short title given by the Amending Act, 1901 (11 of 1901).

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 4.

It has also been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666; in the Dutcharti and Guditeru Muttas of the Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553.

It has been extended by a notification under s. 5 of the same Act to the Bhadrachalam and Nugur Taluqs of the Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553.

² The words and figures “It is hereby enacted, that from the fifteenth day of December, 1837” rep. by the Repealing Act, 1870 (14 of 1870).

³ The words “It is hereby enacted that” were rep. by the Repealing Act, 1874 (16 of 1874).

⁴ The words “from the said day” were rep. by the Repealing Act, 1870 (14 of 1870).

⁵ The words “and that” were rep. by the Repealing Act, 1874 (16 of 1874).

[THE BENGAL BONDED WAREHOUSE ASSOCIATION
ACT, 1838.]
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 ACT NO. V OF 1838.

[14th March, 1838.]

Incorporation.

1. It is hereby enacted, that the persons whose names appear in the Schedule No. 1, hereunto annexed, shall, from the 14th day of March, 1838, form a corporate body for the Warehousing of Goods, either in bond or otherwise, by the name of the Bengal Bonded Warehouse Association.

Power to sue and be sued, and to acquire, hold and transfer property.

2. And it is hereby enacted, that the said Association shall sue and be sued by its corporate name, and shall use such common seal as the Directors of the said Association shall from time to time appoint, and may acquire, may hold absolutely, may hold by way of pledge, and may transfer, any description of property whatever.

Capital stock and shares.

3. And it is hereby enacted, that the sum of 10,00,000 Rs. subscribed for the purpose of the said Association by the persons hereby incorporated, shall be the Capital Stock of the said Association, and shall be divided into 2,000 shares of 500 Rupees each, and that every one of the persons hereby incorporated shall have one share of such Capital Stock for every 500 Rupees which such person shall have subscribed.

4. And it is hereby enacted, that the Directors of the said Association shall cause the names, additions, and places of residence of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor, to be registered in a book, and the said shares shall in such book be numbered, beginning from No. 1, and such book shall be kept at the office of the said Association, and shall there be open to the inspection of all persons during the usual hours of business.

Registering of names of proprietors.
Register to be open to inspection.

5. And it is hereby enacted, that a certificate signed by three Directors of the said Association shall be delivered to every proprietor of the said Capital Stock, and that it shall be at the option of every proprietor of several shares to receive one certificate for all the shares of such proprietor, or one certificate for each of those shares or several certificates, each of which may be for any number of those shares.

Share-certificates.

6. And it is hereby enacted, that any share or shares of the said Capital Stock may be transferred by indorsement made on the certificate for such share or shares by the proprietor of such share or shares, or by the Attorney of such proprietor duly authorized thereunto; provided always, that such indorsement shall specify the name of the party to whom the transfer is made; and provided also that no such indorsement shall be effectual to transfer any such share or shares until such indorsement shall have been registered in a Register to be kept for that purpose at the office of the said Association, and until a note of such registration, and of the date thereof, shall have been made on the back of the indorsed certificate under the hand of an officer appointed for that purpose by the Directors of the said Association.

Transfer of shares.

7. And it is hereby enacted, that every proprietor of a share of the said Capital Stock, who shall cease to be a proprietor of such Stock, shall cease to be a member of the corporation created by this Act; and that every person who shall become a proprietor of the said Capital Stock, shall become a member of the corporation created by this Act; and shall, in respect of his share or shares of the said Capital Stock, be under the same liabilities under which an original proprietor of the said Capital Stock would be.

Proprietors of shares to be members of Association.

8. And it is hereby enacted, that the business of the said Association shall be managed by six Directors, and that Francis Macnaghten, Joseph Walker, Jasper Ouseley, Richard Howe Cockerell, Alexander Colvin, Joseph Willis, and James Church, Esquires, shall be the first Directors of the said Association.

First Directors of Association.

9. And it is hereby enacted, that every Director of the said Association may be removed by a general meeting of the proprietors, and that every future Director of the said Association shall be elected by such a general meeting.

Removal and election of Directors.

10. And it is hereby enacted, that a rotation among the Directors of the said Association shall be settled by lot, so that two of the said

Directors to go out by rotation.

Directors may go out of office on the Monday following the 15th day of May, in every year, and that on the Monday following the 15th day of May, in every year, a general meeting of proprietors shall be held, at which two Directors shall be chosen, and that no Director going out by such rotation shall be capable of being re-elected, till the Monday after the 15th of May in the year next following.

Election of
successor,
when Direc-
tor ceases
to be so,
otherwise
than by
rotation.

11. And it is hereby enacted, that if any Director of the said Association shall cease to be a Director, otherwise than by the operation of the rule of rotation aforesaid, the Directors of the said Association shall, with all convenient speed after such public notice as is hereinafter directed, call an extraordinary general meeting of the proprietors for the purpose of choosing a successor and such successor shall come into the same place in the rotation aforesaid in which the Director whom he has succeeded was.

12. [Qualifications of Directors.] Rep. by Act V of 1854, s. 1.

Directors to
be residents
of Bengal
Presidency.

13. And it is hereby enacted, that no person shall be capable of being a Director of the said Association, unless he be resident within the Territories subject to the Presidency of Fort William in Bengal.

14. [Ordinary meetings.] Rep. by Act V of 1854, s. 1.

Adjournment
of ordinary
meetings.

15. And it is hereby enacted, that any ordinary general meeting of the said Association may adjourn itself to a future day, and may, on the day to which it shall have so adjourned itself, resume its proceedings, and transact any business which it would have been competent to transact on the day when it originally assembled.

Extra-
ordinary
general
meetings.

16. And it is hereby enacted, that extraordinary general meetings of the said Association shall be held according to such rules as may be made for that purpose, in the Bye-laws of the said Association ; provided always, that no such extraordinary general meeting shall be held without a previous notice of not less than fourteen days, which notice shall be published in not less than two newspapers printed at Calcutta.

Voting at
general
meetings,
Qualifica-
tions for
voting.

17. And it is hereby enacted, that at General Meetings of the Proprietors, every election and question shall be decided by a majority of votes ; and that no proprietor shall be allowed to vote unless he be possessed of two or more shares of the Capital Stock of the said Association, which shares shall have been registered in his name not less than three calendar months before.

Number of
votes to
which pro-
prietors are
entitled.

18. And it is hereby enacted, that at such general meetings, no proprietor shall have more than eight votes, and that the proprietors shall vote according to the following scale :—

2	Shares shall entitle to	.	.	.	.	1	Vote.
4	" " "	.	.	.	.	2	Votes.
6	" " "	.	.	.	.	3	"
10	" " "	.	.	.	.	4	"
20	" " "	.	.	.	.	6	"
35	" " "	.	.	.	.	7	"
50	" " "	.	.	.	.	8	"

19. And it is hereby enacted, that if more persons than one, being partners in trade, shall be joint proprietors of two or more shares of the said Capital Stock, and shall agree to give a joint vote or joint votes, such joint vote or joint votes, shall be received in all respects as the vote or votes of a single proprietor would be received.

Votes of
joint pro-
prieters of
shares.

20. And it is hereby enacted, that every proprietor entitled to vote at any general meeting may give a proxy in writing, general or special, limited or unlimited, and signed by himself or by his attorney duly authorized thereunto, to any other proprietor ; and that the proprietor to whom the proxy is given, may vote on behalf of the proprietor who had given the proxy, according to the terms of such proxy.

Voting by
proxy.

21. And it is hereby enacted, that the Directors of the said Association shall have authority to expend the money of the said Association for the purpose of purchasing and erecting warehouses, and of warehousing and bonding goods therein, and to make and fulfil contracts for the said purpose, and to appoint and remove such servants as may be necessary for the said purpose and generally to manage all the concerns of the said Association, subject to such rules as may be laid down in the Bye-laws of the said Association, and to keep the Seal of the said Association, and to use the said Seal in the affairs of the said Association, provided always, that the said seal shall never be affixed to any instrument except in the presence and by the consent of three Directors, who shall sign their names on every such instrument in token of their presence and consent.

Authority
of Directors.

22. And it is hereby enacted, that the Directors of the said Association shall have authority to call on the proprietors to pay such instalment or instalments as shall, together with the instalments already paid, amount to a sum not exceeding 50 per cent. on each share ; and that no further call shall be made, except in consequence of a vote of a general meeting of the proprietors, authorising such further call ; provided always that no proprietor shall be called upon to pay more in proportion to his share in the Capital Stock than any other proprietor.

Calls for
share money.

23. And it is hereby enacted, that if any proprietor shall not pay any instalment which he is lawfully called upon to pay, in the manner described in the last Section, on the day appointed for such payment, the said Association shall have a claim against such proprietor for interest on the deficient sum, after the rate of 10 per cent. per annum ; and that it shall be lawful for the Directors of the said Association to apply, in satisfaction of such instalment and of such interest, any dividend due to such proprietor, placing every dividend so applied to the credit of such proprietor with the said Association.

Interest to
run on each
call.

Application
of dividend
in satisfac-
tion of un-
paid calls.

24. And it is hereby enacted, that it shall be lawful for the Directors of the said Association to refuse to register the transfer of any share belonging to any proprietor who shall not have paid such instalment and interest as aforesaid ; and that in case such instalment and interest

Power to
refuse to
register
transfer by
defaulting
proprietor.

Power to
sell shares to
satisfy calls,
and issue
fresh certifi-
cates.

shall not be paid within two months after notice to pay the same has been given by the said Directors to such proprietor, or to his attorney or attorneys duly authorised, it shall be lawful for the said Directors to sell by public sale the share or shares of such proprietor, to such an extent as may be sufficient to satisfy such instalment and interest, and to grant, upon such sale, a new certificate or new certificates to the purchaser of such share or shares whereupon the former certificate or certificates for such share or shares shall become void, and if there be any surplus after such instalment and interest have been satisfied, such surplus shall be paid on demand to the proprietor of such share or shares, and shall, till demand, be credited in the books of the said Association to such proprietor, but no interest shall run thereon.

Extension
of Act
No. XXV of
1836 to
warehouses
of Associa-
tion.

25. And it is hereby enacted, that all the provisions of Act No. XXV of 1836, of the Governor General of India in Council, relating to private licensed Warehouses, shall be applicable to all Warehouses wherein the said Association shall receive bonded Goods.

Power to
give general
security for
payment
of import
and export
duties.

26. And it is hereby enacted, that it shall be lawful for the said Association to give general security, by bond, under the seal of the said Association, for payment of the full duties of importation on Goods, lodged in any Warehouse of the said Association, or for the due exportation of such Goods; and if the said Association shall give such bond, no security shall be required from any other party to the same effect.

Rates for
warehousing.

27. And it is hereby enacted, that the Directors of the said Association shall, from time to time, fix the rates at which the said Association will Warehouse Goods and receive Goods at its Wharfs, and that a table of such rates shall be placed at every Warehouse and Wharf of the said Association.

Certificates
of deposit,
transferable
by endorse-
ment.

28. And it is hereby enacted, that as often as any Goods are lodged in any Warehouse of the said Association, the Secretary of the said Association shall deliver a warrant signed by him as such Secretary, to the person lodging such Goods, which warrant shall be, as nearly as possible, in the form set forth in Schedule II annexed to this Act, and such warrant shall be transferable by indorsement, and shall entitle any person to whom it may have been so transferred by endorsement, to receive the Goods specified in such warrant, on the same terms on which the person who originally lodged those Goods would have been entitled to receive the same.

Suits against
Association.

29. And it is hereby enacted, that all suits brought against the said Association shall be brought in the Supreme Court of Judicature at Fort William in Bengal and not elsewhere.

Joint Stock
of Associa-
tion.

30. And it is hereby enacted, that all the Joint Stock of the said Association of what kind or description soever, and all the Land, Warehouses, Messuages, Tenements, Hereditaments, Premises and

Property acquired therewith, of which the said Association shall become in any manner possessed, entitled to, or interested in, shall be held and enjoyed by the proprietors thereof, and their successors respectively, as Personal Estate, or as in the nature of Chattel Interests, and not as, or in the nature of, Real Estate.

31. And it is hereby enacted, that in order to define the liability of Proprietors of shares, and to save harmless themselves and their respective Heirs, Executors, Administrators, Representatives and Assigns, no Proprietor, his Heirs, Executors, Administrators, Representatives or Assigns, shall be personally liable to any person or persons whatsoever by reason of being a Proprietor in any event, or for or on account of any acts, deeds, contracts or liabilities of the said Association, or of the Directors or Secretary thereof respectively, or under or by virtue of any judgment or decree in any action or suit, but that the party or parties having any legal or equitable demand or claim for or on the account last aforesaid, or having obtained such judgment or decree as last aforesaid, shall and may only recover the amount of such demand, claim, judgment or decree from and out of or to the whole extent of the paid up Capital, accumulated Funds, Lands, Messuages, Tenements, Hereditaments and Premises whatsoever and wheresoever, which may at the time belong to the said Association, or to which they may at the time be entitled.

Individual members not to be liable.

32. [*Bye-laws.*] *Rep. by Act V of 1854, s. 1.*

33. And it is hereby enacted, that it shall be lawful for the said Association to increase its Capital Stock ; provided always that no such increase shall take place unless it be authorized by a vote of two extraordinary general meetings of Proprietors specially convened for that purpose, of which meetings the second shall be held not less than three calendar months after the first.

Increase of Capital Stock.

34. And it is hereby enacted, that in the event of such increase, the Proprietors of the original Stock shall not be bound to subscribe, but shall in the first instance have the option of subscribing for the increased Capital Stock in proportion to the share which each has of the original Capital Stock ; and so much of the additional Capital Stock as shall not be subscribed for by the said Proprietors of the original stock, within one year after the passing of the final resolution for the increase, shall be open to the public, and be sold, for the benefit of the said Association, by public sale.

Option to original proprietors to subscribe in first instance.

35. And it is hereby enacted, that all the rules laid down in this Act respecting the original Capital Stock of the said Association, shall be applicable to any additional Stock which may be subscribed in the manner hereinbefore described.

Provisions of Act to apply to additional Stock.

36. And it is hereby enacted, that if the said Association shall be desirous to dispose of any premises purchased by the said Association from the East India Company, the said East India Company shall have the right of pre-emption, and the price shall be fixed by two appraisers, the one named on the part of the said East India Company, and the

East India Company to have right of pre-emption.

other by the Directors of the said Association; and if the said appraisers shall not agree on a price, the price shall be fixed by an umpire named by the said appraisers.

37. [Dissolution of Association by order of the Governor General in Council.] Rep. by Act V of 1854, s. 1.

Dissolution
of Associa-
tion by
resolution of
proprietors.

38. And it is hereby enacted, that the said Association may at any time be dissolved by a resolution to that effect of two-thirds in number and value of the proprietors qualified to vote at two successive extraordinary meetings specially called for the purpose of taking into consideration the expediency of such dissolution; provided that not less than three months shall have elapsed between the first and second of such two extraordinary meetings.

Division of
property on
dissolution.

39. And it is hereby enacted, that whenever the dissolution of the said Association shall be ordered either by the ¹[Central Government], or by a vote of the said Association, the Directors of the said Association shall cause all the property of the said Association to be converted into money, and shall divide whatever surplus may remain after satisfying the debts of the said Association among the proprietors in proportion to the shares which the proprietors have in the Capital Stock of the said Association; and after such distribution the said Association shall forthwith be dissolved.

SCHEDULE No. I.

LIST OF PROPRIETORS OF SHARES.

R. H. Cockerell.	J. W. J. Ouseley, Captain.	George Dougal.
W. Speir.	G. A. Prinsep.	John Richards.
W. Martin.	W. Barrington, Captain.	Bruce, Shand & Co.
R. Speir.	T. C. Robertson.	G. W. A. Lloyd, Lt.-Col.
T. Spier.	Ramdas Dey.	W. Freeth, Captain.
J. S. Brownrigg.	Bonomalee Mullick.	James Colquhoun.
J. Cockerell.	A. Muller.	James Church.
G. G. de H. Larpent.	Charles Trebeck.	Edward Harding.
J. St. Pourcain.	T. Bowring.	Henry Moore.
J. M. Dove.	J. W. Alexander.	R. Watson.
Gungapersaud Gossain.	T. B. Swinhoe.	Mrs. B. Betty.
Ramchunder Seal.	Robert Swinhoe.	Henry Mackenzie.
J. Willis.	A. Dobbs.	Adam Scott and Co.
W. Earle.	John Watson.	Holodhur Chowdry.
D. Willis.	Taraneechurn Chatterjee.	Charles S. Gover.
T. Willis.	G. Herklots, Junior.	K. B. Mackenzie.
J. Master.	F. O. Wells.	S. R. Crawford.
G. C. S. Master, Lieut.	C. Lancaster.	T. A. Shaw.
Trustees of Mrs. Limond's Marriage Settlement.	C. Lancaster, Trustee for Mrs. Cornish's Marriage Settlement.	W. A. Shaw. H. Walters.

¹ Subs. by the A. O. 1937 for "Governor General of India in Council".

SCHEDULE No. I—contd.

LIST OF PROPRIETORS OF SHARES—contd.

J. Innes.	J. Mackey & Co.	J. P. Marcus.
W. Adam.	James Mackenzie.	Mrs. Bruce.
Joseph Worthington.	P. J. Sarkies.	Miss L. W. Bruce.
James Cullen.	G. Collier.	Joseph Bruce.
J. C. Palmer.	R. Bird.	Charles C. Bruce.
A. Colvin.	J. Ranken, M.D.	Debnarain Day.
W. Ainslie.	Brijobullub Doss & Gocul Doss.	William Bruce, Trustee for Mrs. Col. Lloyd.
H. Cowie.	A. S. Stopford.	W. Ryland.
T. S. Anquetil, Lt.-Col.	A. Beattie.	M. Hughes, Captain.
W. H. Martin.	Wilson Frith & Co.	Annundchunder Mitter.
A. Irvine, Major.	G. C. Arbuthnot.	J. A. Walker.
W. A. Peacock.	A. Jackson.	T. Hyde Gardiner.
J. A. Moore, Major.	A. S. Gladstone.	J. C. Owen.
T. W. Burt.	J. Craigie Lieut.-Col.	Doorgachurn Bose.
William Braddon.	J. Williams.	Rajkissore Lahory.
Francis Macnaghten.	J. B. Higginson.	Gourmohun Coondoo.
Carr, Tagore and Co.	Megnarain Roy.	S. Hornby.
W. Carr, Trustee for Mrs. Dick's Marriage Settlement.	Ramnarain Mookerjee.	Hurrischunder Bose.
Robert Lyall.	Doorgachurn Mookerjee.	Ramssoonder Mullick.
Moheshchunder Mitter.	Gowrichurn Mookerjee.	Rajchunder Ghose.
Prawnkisto Doss.	I. B. Biss.	Radanauth Dutt.
Conai Lal and Mukun Lal.	J. S. Biss.	H. Barrow.
J. Rostan, Junior.	Rogoonath Coonlo.	Godadhur Mitter.
J. H. Rostan.	W. F. Gibbon.	E. D'Cruz.
Madobchunder Sandell.	J. Cock.	Goluckchunder Dur.
Dyalchaund Bysack.	H. F. King.	Luckinarain Day.
Gopeekissen Paul.	James Hill.	T. Blechynden.
Ditto for Mrs. A. G. Glass.	W. Rushton.	W. Stacy.
Ditto for E. B. Squire, Junior.	A. J. Sturmer.	J. George.
Charles Lyall.	Boloram Day.	Mrs. C. Shelverton.
John Lyall.	Obhoychurn Mookerjee.	C. Shelverton.
David Lyall.	Bolychaund Bysack.	Cassinauth Banorjee.
W. T. Dawes.	Mrs. Sarah Moss.	P. S. D'Rozario.
Colville, Gilmore & Co.	W. Barrett.	J. D' M. Sinaes, in Trust for Miss J. F. Speed.
Alexander Rogers.	Hurrimohun Mookerjee.	Gorachaund Bose.
J. H. Crawford.	Mohunchunder Ghose.	J. E. Dunn.
A. Porteous.	Horrimohun Banorjee.	D. W. H. Speed.
	Kistnomohun Seal.	Rajkissen Dey.
	Hurrochunder Bose.	Jomejoy Bhose.

SCHEDULE No. II.

CALCUTTA BENGAL BONDED WAREHOUSE ASSOCIATION

I do hereby Certify that.....have deposited in the Warehouse of the Association the undermentioned Goods..... which Goods, the Association engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said.....or their Assigns, or to the holder of this warrant to whom it may be transferred by indorsement.

Secretary.

[THE BOMBAY COURTS OF ADALAT ACT, 1838]

ACT No. XVI OF 1838.

[23rd July, 1838.]

Suit to be
brought in
Civil and not
Revenue
Courts.

1. *First* 2* * * * * In the ³[State] of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land 4* * * * * is claimed, shall be brought in the Courts of Adálat and the Courts subordinate thereto, and not in the Courts of revenue.

Second.—[Summary jurisdiction of Revenue Courts in giving possession.] Rep. by the Mamlatdars' Court Act, 1876 (Bom. Act III of 1876).

Third.—[Saving of certain jurisdiction of Revenue Courts.] Rep. by Bom. Act II of 1866.

Procedure on
suits being
presented
to superior
Court
doubting its
jurisdiction;

2. 5* * * * * If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case, refer the question of jurisdiction to the Sadr Dīwānī Adálat whose decision on the point shall be final.

and in subor-
dinate Court
so doubting.

3. 5* * * * * If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's or Collector's Court to which such subordinate Court is subordinate; and, if the superior Court to which the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case; and, if such superior Court shall be of opinion that such subordinate Court has not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section.

¹ Short title given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921). This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency except the Scheduled Districts.

² The words and figures "It is hereby enacted, in modification of the rules contained in Chapter VIII, Regulation XVII of 1827 of the Bombay Code, that" rep. by the Repealing Act, 1870 (14 of 1870).

³ Subs. by the A. O. 1950 for "Province" which had been subs. by the A. O. 1948 for "territories subject to the Presidency".

⁴ The words "or of the wuttuns of hereditary district or village officers" rep. by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876).

⁵ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

4. 1* * * * * Whenever a Court of Adálat or a Revenue Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Sadr Diwání Adálat, either on a reference from the Judge or Collector (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court.

Transfer of suit entered in Court not having jurisdiction.

5. 1* * * * * When any Court trying an appeal finds that the action was originally brought and decided in a Revenue Court, when it ought to have been brought and decided in a Court of Adálat, or a Court subordinate thereto, or that the action was originally brought and decided in a Court of Adálat, or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue Court, the Court trying the appeal shall, instead of quashing the whole proceedings, annul only the decree and refer the suit to be tried in the Court to which the jurisdiction properly belongs 2* * * * * ; and the Court trying any such case referred under the foregoing section shall take further pleadings, exhibits and evidence only if it deem such necessary, and shall pass a new decree 2* * * * * .

Procedure on Court of Appeal finding original suit was decided in wrong Court.

6. [Pending suits and appeals.] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

³[THE BOMBAY COASTING-VESSELS ACT, 1838.]

ACT NO. XIX OF 1838.

[27th August 1838.]

1. [Repeal of enactments.] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

¹ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

² The words "without further costs of stamps to the parties, except on new exhibits, if any such should be allowed to be filed", and the words "but if an appeal be made from such new decree by the party originally bringing the appeal, then the decree of the Court trying such new appeal shall be passed without the cost of a new stamp on the petition of appeal to that party" rep. by the Repealing Act, 1870 (14 of 1870).

³ Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921). This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts.

Rules as to
coasting and
other vessels
belonging to
any citizen
of India.

2. 1* * * * * The following rules shall be in force with respect to vessels belonging to ²[any citizen of India] residing within the ³[State] of Bombay, and employed on the coasts of the ⁴[said State] or in trading coastwise, as also with respect to fishing-vessels and harbour-craft belonging to ⁵[any such citizen].

Marking or
branding
vessels with
name of place
and number.

3. 6* * * * * Every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall be marked or branded with the name of the place to which she belongs, and also with a number assigned for the same by the officer authorised to make such registry as is hereinafter mentioned ;

Owner to
paint name
and number.

and the owner or owners of such vessel employed as aforesaid, fishing-vessel and harbour-craft shall cause such name and number to be painted in black paint upon a white ground on each quarter of such vessel employed as aforesaid, fishing-vessel and harbour-craft, in English figures and letters, each figure and letter being six inches in length.

Registry of
name,
number and
burthen.

4. 6* * * * * The name and number of every such vessels employed as aforesaid, fishing-vessel and harbour-craft, and her burthen, and also the name or names of the owner or owners thereof, shall be registered in a book to be kept for that purpose by the person hereinafter directed to make such registry.

Registry by
whom to be
made.

At Bombay such registry shall be made by the Master-Attendant, and at other places within the said ⁷[State] by the Collector of Sea-customs at such places respectively, or by such other person as shall be appointed by the ⁸[Central Government] to act at such places respectively, in the execution of this Act ; and whenever any change shall take place in the burthen of such vessel employed as aforesaid, fishing-vessel or harbour-craft, or in the name or names of the owner or owners thereof, such registry shall be made again :

Fresh registra-
tion.

Provided, however, that it shall not be lawful to give any name to such vessel employed as aforesaid, fishing-vessel or harbour-craft, other than that by which she was first registered.

¹ The words and figures " And it is hereby enacted, that from the said first day of November, 1838 " rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1950 for " any of Her Majesty's subjects ".

³ Subs. by the A. O. 1950 for " Province " which had been subs. by the A. O. 1948 for " Presidency ".

⁴ Subs. by the A. O. 1950 for " said Province " which had been subs. by the A. O. 1948 for " territories subject to the Government of Bombay ".

⁵ Subs. by the A. O. 1950 for " any of the same Her Majesty's subject ".

⁶ The words " And it is hereby enacted, that " rep. by the Repealing Act, 1874 (16 of 1874).

⁷ Subs. by the A. O. 1950 for " Province " which had been subs. by the A. O. 1948 for " territories ".

⁸ Subs. by the A. O. 1937 for " Government of Bombay ".

5. 1 * * * * The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply to the person authorized to make such registry in respect of the same, in order to have such registry as aforesaid made, or in order to have such registry made again as aforesaid. Owners to apply for registry.

And whenever such vessel employed as aforesaid, fishing-vessel or harbour-craft is registered at a subordinate port, information thereof, and of the number there assigned to her, shall immediately be given by the registering officer to the Master-Attendant at Bombay. Information of registry at subordinate port.

6. 1 * * * * The duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft, at Bombay, shall be performed by the Master-Attendant ; and at all other places within the ²[State] of Bombay, the duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft shall be performed by the Collector of Sea-customs at such places respectively, or by such other persons as shall be appointed by the ³[Central Government] to act at such places respectively, in the execution of this Act. Officers to perform duty of marking and branding.

7. 1 * * * * The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply for and obtain a certificate of registry from the person authorised to make such registry as aforesaid, and such certificate shall be in the form specified in the Schedule appended to this Act ; and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner and on payment of the fees hereinafter mentioned. Owner to obtain certificate of registry.
Replacing lost certificate.

8. 1 * * * * Such certificate of registry shall be sealed with the seal of the ⁴[Government of India], and shall be signed by the person authorized to make such registry. Sealing certificate.

9. [Dates for commencement of certificate and registration.] Rep. by the Repealing Act, 1876 (XII of 1876).

10. 1 * * * * The owner or owners of such vessels employed as aforesaid (fishing-vessels and harbour-craft being excepted), on being registered as aforesaid, shall pay— Fees for certificates.

for each certificate of registry for a vessel not exceeding 20 Bombay khandis burthen, the fee of	1 rupee.
for each certificate for a vessel exceeding 20 such khandis burthen, and not exceeding 100 khandis burthen	5 rupees.
for each certificate for a vessel exceeding 100 such khandis burthen, and not exceeding 400 khandis burthen	7 rupees.
and for each certificate for a vessel of 100 tons or greater burthen, per ton	2 annas.

11. 1 * * * * The person or persons so authorized to make such registry as aforesaid shall receive the fees payable for the same, Fees to be credited to Government.

¹The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

²Subs. by the A. O. 1950 for "Province" which had been subs. by the A. O. 1948 for "territories subject to the Government".

³Subs. by the A. O. 1937 for "Government of Bombay".

⁴Subs. by the A. O. 1950 for "East India Company".

and shall pay such fees to such officer as the ¹[Central Government] shall appoint; the same to be carried to the credit of the ²[Central Government]:

³[Provided that any such fees as immediately before the commencement of ⁴[the Constitution], were, under this Act as then in force to be carried to the credit of the ⁵[Provincial Government] shall be paid to such officer as the ⁶[State] Government may appoint and be carried to the credit of that Government.]

Production
of certificate
on demand.

12. * * * * * The owner or owners or commander of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall produce, on demand thereof by any officer of the Customs within the said ⁸[State] or by any officer of the ⁹*Navy, the certificate so directed to be applied for and obtained, in respect of such vessel employed as aforesaid, fishing-vessel or harbour-craft, as above mentioned.

Penalty for
neglect to
comply with
rules.

13. * * * * * In case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so marked or branded in all respects as hereinbefore directed, or in case the name and number of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so painted, or shall not continue so painted on such vessel employed as aforesaid, fishing-vessel or harbour-craft, in all respects as hereinbefore directed;

or in case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be furnished with such certificate as hereinbefore specified, or in case the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not produce such certificate on demand thereof as hereinbefore directed;

the owner or owners of every such vessel employed as aforesaid shall be subject to a fine of ten times the amount of the fees payable in respect of the certificate of registry of such vessel, the same being a vessel for the certificate of the registration of which any fee is payable; and the owner or owners of any such fishing-vessel or harbour-craft shall be subject to a fine of ten rupees;

¹ Subs. by the A. O. 1937 for "Governor of Bombay in Council".

² Subs. by the A. O. 1937 for "Government of Bombay".

³ Ins. by the A. O. 1937.

⁴ Subs. by the A. O. 1950 for "Part III of the Government of India Act, 1935".

⁵ Subs. by the A. O. 1950 for "Local Government".

⁶ Subs. by the A. O. 1950 for "Provincial".

⁷ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

⁸ Subs. by the A. O. 1950 for "Province" which had been subs. by the A. O. 1948 for "territories".

⁹ The word "Indian" rep. by the Repealing Act, 1876 (12 of 1876).

which fines may be recovered on conviction before any Magistrate ^{Recovery of}
¹* * * * * having jurisdiction within the said ²[State] by sale ^{penalties.}
of such vessel, fishing-vessel or harbour-craft, her furniture, ammuni-
tion, tackle and apparel ;

and such fines shall be payable as often as the owner or owners ^{Penalty on}
or commander of any such vessel employed as aforesaid, fishing-vessel ^{repetition of}
or harbour-craft shall make such default as aforesaid : Provided every ^{default.}
such subsequent default be made after the expiration of one month
from the date of the last conviction.

14. ³* * * * * The ⁴[Central Government] may direct com- ^{Power to}
pensation for trouble and diligence in seizing such vessel employed ^{direct com-}
as aforesaid, fishing-vessel or harbour-craft, guns, furniture, tackle, ^{pensation for}
ammunition and apparel, as last mentioned, to be made, out of the ^{trouble in}
proceeds of such seizure to the person or persons who shall have ^{seizing.}
seized the same, to such amount, in such manner and in such shares
or proportions, as to the said ⁵[Central Government] shall seem meet.

15. [Port-clearance.] Rep. by the Repealing Act, 1876 (XII of 1876).

SCHEDULE.

This is to certify that (*here insert the names, occupation and residence of the owners*) having declared that (he or they) are sole owner or owners of the vessel (fishing-vessel or harbour-craft) called (*the name*) which is of the burthen of (*number of Bombay khandis*) and that the said vessel (fishing-vessel or harbour-craft) was (*where and when built*), the said vessel (fishing-vessel or harbour-craft) has been duly registered at the port of (*name of port*).

Certified under my hand.

(Signature of Officer.)

⁶[THE BOMBAY HAQQA PROHIBITION ACT, 1839.]

ACT No. XX OF 1839.

[29th July, 1839.]

1. ⁷* * * * * It shall be lawful for the ⁸[appropriate Govern- ^{Power to}
ment] to issue orders prohibiting the levy of haqqas and fees of every ^{prohibit levy.}

¹ The words "Justice of the Peace, or person exercising the powers of a Magistrate" rep. by the Repealing Act, 1876 (12 of 1876).

² Subs. by the A. O. 1950 for "Province" which had been subs. by the A. O. 1948 for "territories".

³ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

⁴ Subs. by the A. O. 1937 for "Governor of Bombay in Council".

⁵ Subs. by the A. O. 1937 for "Governor in Council".

⁶ Short title given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts.

⁷ The words "It is hereby declared and enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

⁸ Subs. by the A. O. 1937 for "Governor in Council of Bombay".

of haqqs,
fees and
customs.

description, and customs, whether by land or sea, enjoyed by holders of rent-free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Government.

Past and
future prohi-
bitions not to
be questioned
by any Court.

2. ¹* * * * * The legality of any orders which may have been heretofore issued, or of any orders which, conformably with this Act, hereafter shall be issued, by the ²[appropriate Government], for prohibiting the levy of any such haqqs, or fees, customs or alienated shares of any such item of revenue as aforesaid, shall not be questioned in any Court of law.

Penalty for
levy after
prohibition.

3. ¹* * * * * Whoever shall levy any such haqq, fee, customs or item of revenue after any such order prohibiting the same as aforesaid shall have been published in the ³[Official Gazette] and by notice fixed at the post or place at which it has heretofore been claimed or collected or called ⁴[shall, whether he is or is not a Revenue-officer of ⁵[the Government], be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine not exceeding ten times the amount of the sum so levied].

Interpreta-
tion.

⁶[4. In this Act, "the appropriate Government" means the Central Government or the ⁷[State] Government according as the matter in question falls within List I, or Lists II and III, in the Seventh Schedule to the ⁸[the Constitution].]

⁹[THE GANJAM AND VIZAGAPATAM ACT, 1839.]

ACT No. XXIV OF 1839.

[2nd October, 1839.]

An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.

1. [Repeal of Act XXIII of 1836.] Rep. by the Repealing Act, 1870 (XIV of 1870).

¹ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1937 for "Governor in Council of Bombay".

³ Subs. by the A. O. 1937 for "Govt. Gazette of the Presidency of Bombay".

⁴ Subs. for "shall be punishable as for an undue exaction under Regulation XVII of 1827, s. 16, of the Bombay Code, notwithstanding offender be not a Revenue-officer of Government" by the Amending Act, 1894 (4 of 1894).

⁵ Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Government".

⁶ Ins. by the A. O. 1937.

⁷ Subs. by the A. O. 1950 for "Provincial".

⁸ Subs. by the A. O. 1950 for "Government of India Act, 1935".

⁹ Short title given by the Amending Act, 1901 (11 of 1901).

2. ¹* * * The operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the Districts of Ganjam and Vizagapatam:—

Exemption
of districts
from certain
rules.

IN THE DISTRICT OF GANJAM.

Zamíndáris.

Pálúru	Mohari.
Hummá.	Vijayanagaran.
Biridi.	Háthagada.
Kallikóta.	Brahmanórachi.
Pratápagiri.	Chíkati.

Mandasa.	Dhárakóta.
Súrangí.	Bodagada.
Jaradá.	Sherugada.
Jalantra.	Tarla.
Budárasangi.	Parlákimidi.

Amáni Estates.

Gumsará.	Pornary (<i>leg.</i> Komari ?).
Suradá.	Kurlá.
Aská.	

IN THE DISTRICT OF VIZAGAPATAM.

Ancient Zamíndáris.

Vijayanagaram.	Bobbili.
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Hill Zamíndáris.

Jayapúram.	Sarvapallí-bhímavaram.
Kurubhám.	Sálúru.
Sangamvalasa.	Mádugula.
Chemudum.	Belgám.
Páchipenta.	Mérangi.
Andhram.	

Under Amáni.

Pálakonda.	Gólakonda.
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¹ The words "And it is hereby enacted, that from and after the said first day of December, 1839", rep. by the Repealing Act, 1874 (16 of 1874).

Administra-
tion of civil
and criminal
justice in
those
districts.

3. 1* * * * The administration of civil and criminal justice (including the superintendence of the Police), and the collection and superintendence of the revenues of every description within the tracts of country specified in the foregoing ²[section which are included in any district shall be vested in the Collector of that district, and shall be exercised by him as Agent for the ³[State] Government concerned].

Power to
prescribe
rules for
Government
Agents.

4. 1* * * * It shall be competent to the ⁴[³[State] Governments respectively concerned] to prescribe such rules as ⁵[they] may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the ⁶[High Court], and to define the authority to be exercised by the Agents in criminal trials, and what cases he⁷ shall submit for the decision of the ⁸[High Court].

Judgment in
criminal
trials referred
by Agents to
High Court.

5. 1* * * * Upon the receipt of any criminal trials referred by ⁹[any] of the Agents under the rules which may be hereafter prescribed by the ¹⁰[State Government], the ⁸[High Court] shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Judge on circuit.

Appeals to
High Court
from decrees
of Agents.

6. 1* * * * Upon the receipt of any appeal from a decree of ⁹[any] of the Agents, under the rules to be prescribed as aforesaid, the ¹¹[High Court] shall proceed to try and determine it in the same manner as appeals from the ³[State] Courts.

¹ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1937 for "section which are now included in the district of Ganjam shall be vested in the Collector of Ganjam, and within those which are now included in the district of Vizagapatam in the Collector of Vizagapatam, and shall be exercised by them respectively as Agents to the Governor of Fort St. George".

³ Subs. by the A. O. 1950 for "Provincial".

⁴ Subs. by the A. O. 1937 for "Governor in Council of Fort St. George, by an Order in Council".

⁵ Subs. by the A. O. 1937 for "he".

⁶ Subs. by the A. O. 1937 for "Sadr Adálat".

⁷ Sic. read "they".

⁸ Subs. by the A. O. 1937 for "Faujdari Adálat".

⁹ Subs. by the A. O. 1937 for "either".

¹⁰ See footnote 2 on p. 1, *supra*.

¹¹ Subs. by the A. O. 1937 for "Court of Sadr Adalat".

7. 1* * * * Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the ²[State Government] by virtue of Regulation II of 1819 of the Madras Code ³[or Regulation III of 1818 of the Bengal Code, as the case may be]: Provided that the third, ⁴* * * fifth, sixth and seventh sections of ⁵[those Regulations respectively] shall remain in force and be applicable to commitments under this Act: Provided also that, in every case in which ⁶[the Agent] shall make any such commitment, he shall transmit immediately a report to the ²[State Government] for his orders. Commitments by Agents.
Report of commitments.

8. 1* * * * It shall be competent to the ⁷[⁸[State] Government, by order] to make, from time to time ⁹* * * * such alterations in the limits of the tracts within the aforesaid districts placed under the jurisdiction of the said Agents, respectively as ¹⁰[it] may deem expedient. Power to alter limits of tracts.

¹¹[THE DOWER ACT, 1839.]

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8. Dower shall be subject to restrictions.
9. Devise of real estate to the widow shall bar her dower.
10. Bequest of personal estate to the widow shall not bar her dower.

¹ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Governor of Fort St. George in Council".

³ Ins. by the A. O. 1937.

⁴ The word "fourth" rep. by the Amending Act, 1891 (12 of 1891).

⁵ Subs. by the A. O. 1937 for "that Regulation".

⁶ Subs. by the A. O. 1937 for "either of such Agents".

⁷ Subs. by the A. O. 1937 for "Governor in Council of Fort St. George, by an order in Council".

⁸ Subs. by the A. O. 1950 for "Provincial".

⁹ The words "with the previous sanction of the Governor General of India in Council" rep. by the Madras District Limits Act, 1865 (Mad. Act 1 of 1865).

¹⁰ Subs. by the A. O. 1937 for "he".

¹¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

SECTIONS.

11. Agreement not to bar dower may be enforced.
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15. Saving of certain rights.

¹ACT NO. XXIX OF 1839.

[16th December, 1839.]

An Act for the Amendment of the Law relating to Dower.

Preamble.

1. Whereas it is expedient to extend the amendments in the English law of dower contained in the ²Statute 3rd and 4th William IV, Chapter CV, to the territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English law of dower as it existed previously to the passing of the aforesaid Statute ;

³ & ⁴ Will.
4, c. 105.

Interpreta-
tion.

It is hereby enacted that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows ; that is to say, the word "land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof. * * * * *

¹ The whole Act, except as to marriages contracted before 1st January, 1866, rep. by the Repealing Act, 1868 (8 of 1868).

As to dower when the marriage was contracted before the 1st January, 1866, the Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, to be in force in the whole of India except Part B States and except the Scheduled Districts.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri See Gazette of India, 1881, Pt. I, p. 74.

The Districts of Hazáribágh,
Lohárdaga (now the Ranchi
District, see Calcutta Gazette,
1899, Pt. I, p. 44), and Mán-
bhūm, and Pargana Dhálbhum,
and the Kolhán in the District
of Singbhum Ditto 1881, Pt. I, p. 504.

The Scheduled portion of the
Mirzápur District Ditto 1879, Pt. I, p. 383

Jaunsar Bawar Ditto 1879, Pt. I, p. 382.

Assam (except the North Lusháí
Hills) Ditto 1897, Pt. I, p. 299,

The Scheduled Districts in Gan-
jam and Vizagapatam Ditto 1898, Pt. I, p. 870,

and
Fort St. George Gazette, 1898, Pt. I,
p. 666.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Scheduled Districts of Kumáon and Garhwál. See Gazette of India, 1876, Pt. I, p. 606.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

² Short title, "The Dower Act, 1833". See the Short Titles Act, 1896 (59 & 60 Vict., c. 14).

³ The last sentence rep. by the Repealing and Amending Act, 1914 (10 of 1914), Sch. II.

2. ¹* * * * When a husband shall die, beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable, or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession (other than an estate in joint-tenancy), then his widow shall be entitled in equity to dower out of the same land.

Widows to be entitled to dower out of equitable estates.

3. ¹* * * * When a husband shall have been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband shall not have recovered possession thereof: Provided that such dower be sued for or obtained within the period during which such right of entry or action might be enforced.

Seisin shall not be necessary to give title to dower.

4. ¹* * * * No widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will.

No dower out of estates disposed of.

5. ¹* * * * All partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower.

Priority to partial estates, charges and speciality debts.

6. ¹* * * * A widow shall not be entitled to dower out of any land of her husband, when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

Dower may be barred by a declaration in a deed.

7. ¹* * * * A widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate when by the will of her husband, duly executed for the devise of free-hold estates, he shall declare his intention that she shall not be entitled to dower out of such land or out of any of his land.

or by a declaration in the husband's will.

8. ¹* * * * The right of a widow to dower shall be subject to any conditions, restrictions or directions which shall be declared by the will of her husband duly executed as aforesaid.

Dower shall be subject to restrictions.

9. ¹* * * * Where a husband shall devise any land out of which his widow would be entitled to dower if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his will.

Devise of real estate to the widow shall bar her dower.

¹The words "And it is hereby further enacted, that" were rep. by the Amending Act, 1891 (12 of 1891).

Bequest of personal estate to the widow shall not bar her dower.

10. ¹* * * * No gift or bequest made by any husband to or for the benefit of his widow of or out of his personal estate, or of or out of any of his land not liable to dower, shall defeat or prejudice her right to dower unless a contrary intention shall be declared by his will:

Agreement not to bar dower may be enforced.

11. Provided always² * * * * that nothing in this Act contained shall prevent any Court of Equity from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands or any of them.

Legacies in bar of dower still entitled to preference.

12. ¹* * * Nothing in this Act contained shall interfere with any rule of equity or of any Ecclesiastical Court by which legacies bequeathed to widows in satisfaction of dower are entitled to priority over other legacies.

13. [Certain dowers abolished.] Rep. by the Amending Act, 1891 (XII of 1891).

Act not to take effect before the 1st July 1840.

14. ¹* * * This Act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of July one thousand eight hundred and forty, and shall not give to any will, deed, contract, engagement or charge executed, entered into or created before the said first day of July one thousand eight hundred and forty the effect of defeating or prejudicing any right to dower.

Saving of certain rights, and jurisdiction.

15. ³* * * This Act shall not be construed to affect any right of property in land otherwise than by modifying the law of dower in cases governed by the English law of dower, or to extend or alter the jurisdiction of any of ⁴[Court] of Justice.

⁵[THE INTEREST ACT, 1839.]

ACT NO. XXXII OF 1839.

[30th December, 1839.]

An Act concerning the allowance of Interest in certain cases.

Preamble.

WHEREAS it is expedient to extend to the territories under the

¹ The words "And it is hereby further enacted, that" rep. by the Amending Act, 1891 (12 of 1891).

² The words "and it is hereby further enacted", rep. by *ibid.*

³ The words "And it is hereby provided that", rep. by *ibid.*

⁴ Subs. by the A. O. 1950 for "Her Majesty's Courts".

⁵ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the States of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

Government of the East India Company, as well within the jurisdiction of Her Majesty's Courts as elsewhere, the provisions of the Statute 3rd and 4th William IV, Chapter 42, section 28, concerning the allowance of interest in certain cases ;

1. It is, therefore, hereby enacted that, upon all debts or sums certain payable at a certain time or otherwise, the Court before which such debts or sums may be recovered may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time ; or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment: provided that interest shall be payable in all cases in which it is now payable by law.

Power of
Court to
allow
interest.

It has been declared by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri, the Western Dvárs, that is, the country lying between the Tistá and Sunkos Rivers in the Jalpáiguri District, the Western Hills of Dárjiling (that is, the Hills west of the Tistá River in the District of Dárjiling), the Dárjiling Tarái and the Damson Sub-division of the District of Dárjiling	See Gazette of India, 1881, Pt. I, p. 74.
The District of Hazáribágh	Ditto 1881, Pt. I, p. 507.
The District of Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44)	Ditto 1881, Pt. I, p. 508.
The District of Mánbhum	Ditto 1881, Pt. I, p. 509.
The Pargana of Dhálbhum in the District of Singhbhum	Ditto 1881, Pt. I, p. 510.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Districts of Kámrup, Naulong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dvárs) and Cachar (excluding the North Cachar Hills)	Ditto 1878, Pt. I, p. 533.
The Gáro Hills, the Khási and Jaintiá Hills, the Nága Hills, the North Cachar Hills in the Cachar District and the Eastern Dvárs in the Goálpára District	Ditto 1897, Pt. I, p. 299.

¹[THE BOMBAY REGULATION XIII OF 1830
(APPLICATION) ACT, 1840.]

ACT No. XV OF 1840.

[29th June, 1840.]

An Act for extending Regulations XV of 1827² and XIII of 1830 of the Bombay Code to the Agents of foreign Sovereigns.

Extension of
Bom. Reg.
XIII of 1830
to Agents of
foreign
Sovereigns
and others.

It is hereby enacted that the provisions of Regulations XV of 1827 and XIII of 1830 of the Bombay Code be made applicable to the Agents of foreign Sovereigns having lands and possessions in the ³[⁴[State] of Bombay], and to guardians and such other individuals as the ⁵[State Government] may consider it expedient to invest with the powers contained in the aforesaid Regulations: Provided that in all cases the authority conferred shall be recoverable at the discretion of the ⁵[State Government].

The Scheduled Districts in Ganjam and Vizagapatam. { See Gazette of India, 1898, Pt. I, p. 870,
and Fort St. George Gazette, 1898,
Pt. I, p. 666.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál See Gazette of India, 1876, Pt. I, p. 606.

The Taráí of the Province of Agra Ditto 1876, Pt. I, p. 505.

It has been extended to the New Provinces and Merged States, see Act 59 of 1949.

¹ Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921).

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts.

Every jagirdar and other authority invested with powers under Bom. Reg. 13 of 1830 and Act 15 of 1840 shall, for the purposes of the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879) be deemed to be a Subordinate Judge of such class as the Local Government may from time to time direct—see the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), s. 2A.

Cf. s. 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

² Act 15 of 1840, so far as it relates to Bom. Reg. 15 of 1827, was rep. by the Repealing Act, 1874 (16 of 1874).

³ Subs. by the A. O. 1948 for "British territory of the Bombay Presidency".

⁴ Subs. by the A. O. 1950 for "Provincial".

⁵ Subs. by the A. O. 1950 for "Provincial Govt." which had been subs. by the A. O. 1937 for "Governor in Council of Bombay".

¹[THE INDIAN REGISTRATION OF SHIPS ACT, 1841.]

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PROCLAMATION.

THE SCHEDULE.

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

¹Act No. XIX of ⁴1841.

[5th July 1841.]

An Act for prescribing the Rules to be observed in order that ships or vessels belonging to ports within the territories ²[of India] may become entitled to the privileges of British ships under a Proclamation of the Governor-General of India in Council made in pursuance of the ³Statute 3rd and 4th Victoria, Ch. 56.

4 * * * * *

Ships to be
registered.

It is hereby enacted that no ship or vessel shall be deemed a British ship under ⁵[the Proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, Ch. 56] (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned ⁶* * *, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed, the form of which certificate shall be as follows:—

Certificate of
registry.

“This is to certify that in pursuance of the Act No. X of 1841 of the Governor General of India in Council (here insert the names and occupation and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name) of (place at which the vessel shall be registered) which is of the burthen of (number of tons), and whereof (master's name) is master, and that the said ship or vessel was (when and where built) and (name and employment of Surveying-officer), having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert measurement as ascertained by the rules hereinafter mentioned), that she is (how rigged) rigged with a (standing or run-

¹ This Act has been declared to be in force in the whole of India except Part B States and except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3. It has also been extended to the New Provinces and Merged States, see Act 59 of 1949.

Act 11 of 1850 is to be construed with, and taken as part of, Act 10 of 1841—see Act 11 of 1850, s. 5, *infra*.

² Subs. by the A. O. 1950 for “under the Government of the East India Company, or belonging to Native Princes of States or their subjects”.

³ This Act has been rep. “as to all Her Majesty's dominions” by the Statute Law Revision Act (No. 2) of 1890 (53 & 54 Vict., c. 51), Sch., Pt. I.

⁴ First, Second and Third Paragraphs of section 1 rep. by the A. O. 1950.

⁵ Subs. by the A. O. 1950 for “such Proclamation as aforesaid”.

⁶ The words “within the territories of the East India Company” rep. by the A. O. 1948.

ning) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head: and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name of port). Certified under our hands at the custom-house, in the said port of (name of port), this (date) day of (name of month) in the year (words at length),

(Signed)———, *Collector or Registrar of Shipping.*"

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following:—

Names of several owners within mentioned. Number of shares held by each owner.

Name	.	.	.	.	.	Thirty-two.
Name	.	.	.	.	.	Sixteen.
Name	.	.	.	.	.	Eight.

etc., etc.

(Signed)———, *Collector.*

2. 1* * * * The ports at which registration shall be made ^{Ports of} shall be the ports of Calcutta, Madras, Bombay ^{2*} and such other ^{registry.} places ³[in ⁴[India] as the Central Government] may, from time to time, declare to be registering ports under this Act:

Provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the ⁵[officer authorised by the Central Government in this behalf] at the place where the ship is built, or if there be no ⁶[such officer] there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered:

¹ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

² The word "Singapore" rep. by s. 1 of the Indian Registration of Ships Act, 1891 (7 of 1891).

³ Subs. by the A. O. 1937 for "subordinate to the L. Gs. of India as such Govts. respectively".

⁴ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

⁵ Subs. by the A. O. 1950 for "principal British officer".

⁶ Subs. by the A. O. 1950 for "British Officer in authority".

Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and, if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel, shall be liable, ¹[on conviction before a Presidency Magistrate or a Magistrate of the first class,] to a penalty not exceeding five thousand rupees.

Registrars.

3. ²* * * The persons authorized to make such registry, and to grant such certificates as aforesaid, shall be ³[such persons] as the ⁴[Central Government] may, from time to time, appoint ⁵* * * *.

Book of registry.

4. ²* * * At every port where registry shall be made in pursuance of this Act a book shall be kept by the registering-officer, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering-officer shall forthwith, or within one month at the furthest, send to ⁶[the Central Government] a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration.

5. ²* * * * No registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the registering-officer by the owner or major part of the owners of the ship or vessel required to be registered:—

“I, A. B., of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of build, burthen, et cetera, as described in the certificate of the surveying-officer) was (when and where) built, and that I, the said (A. B.), and the other owners (names and occupations, if any, and where they respectively reside), am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share or property therein or thereto; and that I, the said (A. B.), and the said other owners (if any), am

¹ Subs. by the Indian Merchant Shipping Act, 1883 (5 of 1883), s. 38, for “on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies”.

² The words “And it is hereby enacted, that” rep. by the Repealing Act, 1874 (16 of 1874).

³ Subs. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 2 for “the persons now authorized to make registry of ships or vessels under the Statute 3 and 4 W. 4, Ch. 55, and such other or different persons”.

⁴ Subs. by the A. O. 1937 for “L. Gs.”.

⁵ The words “for the ports under their respective Presidencies” rep. by the A. O. 1937.

⁶ Subs. by the A. O. 1937 for “the Govt. of the Presidency to which he is subordinate”.

(or are) truly and ¹*bonâ fide* ¹[a citizen of India (or citizens of India)] and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel :”

Provided that, if the registering-officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to ²[the Central Government].

6. * * * In case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid shall further declare that the part owner or part owners of such ship or vessel then absent is or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

Further de-
claration by
owners who
attend.

7. And in order to enable the registering-officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of Customs, on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by ⁴[the Central Government], taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons, skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered. and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the build, description and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the officer authorized to make such registry and grant such certificate of registry as aforesaid;

Measurement
to be made.

¹ Subs. by the A. O. 1950 for “a British subject (or British subjects)” which had been subs. by the A. O. 1937 for “a subject (or subjects) of Her Majesty for whom the Governor General of India in Council has power to legislate”.

² Subs. by the A. O. 1937 for “the L. G. to which he is subordinate”.

³ The words “And it is hereby enacted, that” rep. by the Repealing Act, 1874 (16 of 1874).

⁴ Subs. by the A. O. 1937 for “the L. Gs. respectively”.

and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

Certificate of
surveying-
officer.

¹[8. The certificate of the surveying-officer shall be in the form in the schedule to this Act or in such other form² as the ³[Central Government] may from time to time prescribe; and such certificate shall be delivered to the registering-officer before registry.]

Measurement
of tonnage for
purpose of
registry.

¹[9. Subject to the provisions of section 70 of ⁴Act I of 1859 (*An XIII of 1876. Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the ⁴Indian Merchant Seamen's Act, 1876, the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the ⁵Merchant Shipping Act, 1854, as amended by subsequent Acts including the Merchant Shipping (Tonnage) Act, 1889, as apply to measurement of tonnage for the purpose of registry.]

17 & 18 Vict.,
c. 104.
52 & 53 Vict.,
c. 43.

Measurement
of tonnage for
purpose other
than registry.

¹[10. Subject to the provisions referred to in the last foregoing section of the tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under the ⁵Merchant Shipping Act, 1854, amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry.]

17 & 18 Vict.,
c. 104.

Substitution
of Central
Government
for Board of
Trade.

¹[11. The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the ⁶[Central Government] were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the ⁵Merchant Shipping Act, 1872.]

35 & 36 Vict.,
C. 73.

Making of
register tonn-
age on ship
or vessel.

¹[12. The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered.]

¹Subs. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 3, for the original section.

²For form prescribed by the G. G. in C. instead of that in the Schedule to the Act, see Gen. R. & O., Vol. II, p. 2.

³Subs. by the A. O. 1937 for "G. G. in C."

⁴See now the Indian Merchant Shipping Act, 1923 (21 of 1923), by which this Act was rep.

⁵See now the Merchant Shipping Act, 1894, by which these Acts have been rep. and their provisions re-enacted.

⁶Subs. by the A. O. 1937 for "G. G. in C."

13. [Registration of country craft not exceeding two hundred tons.] Rep. by Act XI of 1850.

14. ¹* * * Whenever the ²[register] tonnage of any ship or vessel shall have been ascertained according to the ³[said rules and orders], such account of ²[register] tonnage shall ever after be deemed the ²[register] tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or vessel, or it shall be discovered that the ²[register] tonnage of such ship or vessel had been erroneously taken and computed.

Registered tonnage to be repealed in every subsequent register.

15. ¹* * * If such certificate as aforesaid shall be sold, lent or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the services of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent or disposed of such certificate, or made use of the same as aforesaid, or shall have concurred in or been privy to the committing of any such offence, shall be liable, ¹* * ⁵[on conviction before a Presidency Magistrate or a Magistrate of the first class,] to a penalty not exceeding ten thousand rupees.

Fraudulent use of certificate.

And in case such ship or vessel shall be lost or taken by the enemy, burnt or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the ⁶[Government], ⁷* * * or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in ⁸[India] to the registering-officer at such port, in default whereof the master or any of the owners shall be liable, ⁴* * ⁵[on conviction before a Presidency Magistrate or a Magistrate of the first class,] to a penalty not exceeding five thousand rupees.

¹ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

² Ins. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 4.

³ Subs. by s. 4, *ibid.*, for "rules herein prescribed".

⁴ The words "upon conviction" rep. by the Repealing and Amending Act, 1914 (10 of 1914).

⁵ Subs. by the Indian Merchant Shipping Act, 1883 (5 of 1883), s. 38. for "by information as aforesaid".

⁶ Subs. by the A. O. 1950 for "Crown".

⁷ The words "or the East India Company" rep. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891).

⁸ The original words "the territories of the East India Company" have been successively amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

And if any person not being ¹[a citizen of India] shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of ²[India], then and in such case the certificate of registry shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering-officer at such port, and if such ship or vessel shall be in any place not within ²[India] when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel or of the master thereof in any port of ²[India] to the registering-officer at such port, in default whereof the master or any of the owners shall be liable on conviction before any Justice of the Peace in a penalty not exceeding five thousand rupees recoverable in manner provided by ³[the law for the time being in force for the recovery of fines imposed by Criminal Courts].

Change of
master.

16. ^{4*} * * * When and so often as the master of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the port where such change shall take place, if it be a port within ²[India], the certificate of registry belonging to such ship or vessel, who shall thereupon endorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within ²[India], then such delivery, memorandum and endorsement shall be made and notice given at the first port within ²[India] at which the new master shall arrive after such change. In default of which delivery of the certificate such new master or any of the owners shall be liable, on conviction before a Justice of the Peace, to a penalty not exceeding five thousand rupees recoverable as aforesaid.

Name of ship.

17. ^{4*} * * * It shall not be lawful for any owner or owners of any ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act,

¹ Subs. by the A. O. 1950 for "such subject as aforesaid".

² The original words "the territories of the East India Company" have been successively amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

³ Subs. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 5, for "Act No. 2 of 1839".

⁴ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

and ¹* the owner or owners of all and every ship or vessel which shall be so registered shall, before such ship or vessel, after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters of a length of not less than four inches upon a black ground on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same.

And ¹* if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper or other document describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe or cause or procure or permit such ship or vessel to be described by any other name to any officer or officers of Revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall be liable, ²[on conviction before a Presidency Magistrate or a Magistrate of the first class], to a penalty not exceeding ten thousand rupees ³[recoverable as aforesaid].

18. * * * * All and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to, produce to the person or persons authorized to grant such certificate a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when, and the place where, such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Certificate of building.

19. * * * * If the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the Registering-officer of

Certificate lost or mislaid.

¹ The word "that" rep. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 6 (1).

² Subs. by the Indian Merchant Shipping Act, 1883 (5 of 1883), s. 38, for "on information as aforesaid".

³ Ins. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 6 (2).

⁴ The words "And it is hereby enacted, that" rep. by the Repealing Act 1874 (16 of 1874).

the port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered *de novo*, and a certificate thereof to be granted :

Provided always that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such Registering-officer shall and may grant a license for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act :

Provided always that, if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper Officers of Customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable on conviction before any Justice in a penalty not exceeding five thousand rupees recoverable as aforesaid.

Detention of
certificate.

20. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted that—

in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not), shall wilfully detain and refuse to deliver up the same to the proper Officers of Customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any Justice of the Peace residing near to the place where such detainer and refusal shall be;

and on such complaint the said Justice shall and is hereby required, by warrant under his hand seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal ;

and if it shall appear to the said Justice on examination of such person or otherwise that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such Justice to a penalty not

exceeding one thousand rupees, recoverable as aforesaid, and the said Justice shall, and he is hereby required to, certify the aforesaid detainer, refusal and conviction to the person or persons who granted such certificate of registry for such ship or vessel, who shall on the terms and conditions of law being complied with make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo* ;

and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the Justice cannot be executed upon him, and proof thereof shall be made to the satisfaction of the Registering-officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registered *de novo*, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

21. * * * * If any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within ²[India] on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any Justice to a penalty not exceeding five thousand rupees recoverable as aforesaid. Registratio
de novo.

22. And whereas great inconvenience may arise from the Registering-officers being served with subpœnas requiring them to bring with them and produce, on trials in Courts of Law relative to the ownership of vessels or otherwise, the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom; and whereas it would tend much to the despatch of business if the attendance of such Registering-officers with the same upon such trials were dispensed with, it is therefore hereby enacted that— Testimony
of Register
ing-officers.

the Registering-officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit

¹ The words " And it is hereby enacted, that " rep. by the Repealing Act, 1874 (16 of 1874).

² See footnote 2 on p. 36, *supra*.

for his, her or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, registry or entry shall, upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any Registering-officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals, if produced by any Registering-officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

False declar-
ation.

Falsi fying
documents.

23. * * * * * If any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter or falsify any certificate or other instrument in writing required or directed to be obtained, granted or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person or persons shall for every such offence be liable, ^{2*} *
³[on conviction before a Presidency Magistrate or a Magistrate of the first class], to a penalty not exceeding ten thousand rupees ⁴[recoverable as aforesaid], and, if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

24. [*Ships of Indian States.*].—Rep. by the A.O. 1950.

Fees.

25. * * * The fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the ⁵[Central Government], but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different Presidencies.

Ports to
which ships
belong.

26. * * * All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired

¹ The words "And it is hereby enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

² The words "on conviction" rep. by the Repealing and Amending Act, 1914 (10 of 1914).

³ Subs. by the Indian Merchant Shipping Act, 1883 (5 of 1883), s. 38, for "upon information as aforesaid".

⁴ Ins. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 7.

⁵ Subs. by the A. O. 1937 for "G. G. in C".

⁶ The words "And it is hereby declared and enacted, that" rep. by the Repealing Act, 1874 (16 of 1874).

at the time of passing this Act shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered, or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the ¹Statute 3 and 4 Vict., Ch. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

²27. [Definition of "Local Government".] Rep. by the A. O. 1937.

PROCLAMATION.

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the ¹Statute 3rd and 4th of Queen Victoria, Cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter"), being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging, under the provisions of the Act passed by the Governor General in Council No. X of 1841, to any ports in the territories under the Government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits including the Cape of Good Hope and the territories and dependencies thereof.

¹ This Act has been rep. "as to all Her Majesty's dominions" by the Statute Law Revision Act (No. 2) of 1890 (53 & 54 Vict., c. 51), Sch., Pt. I.

² S. 27 had been ins. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 9.

¹[THE SCHEDULE.

(See section 8.)

ACT X, 1841.

² CERTIFICATE OF SURVEY.

Name of Ship.	Port of intended Registry.	Official Number, if there has been any former Registry.

Whether a Sailing or Steam Ship ; and, if a Steam Ship, how propelled.	Where Built.	When Built.	Name and Address of Builders.

¹ Ins. by the Indian Registration of Ships Act (1841) Amendment Act, 1891 (7 of 1891), s. 3.

² For form prescribed under s. 8 instead of the form here given, see Gen. R. and O., Vol. II, p. 2.

Number of Decks	Length from fore part of stem, under the bowsprit to the aft side of the head of the stern post . . .	Feet.	Tenths.
Number of Masts	Main breadth to outside of plank		
Rigged	Depth in hold from tonnage deck to ceiling at midships		
Stern	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards		
Build	Length of engine-room, if any		
Galleries			
Head			
Framework			

PARTICULARS OF ENGINES (IF ANY).

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and address of makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horse's power (combined).
			Engines.				
			Boilers.				

PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	REDUCTION ALLOWED.	No. of Tons.
Under Tonnage Deck		On account of space required for propelling power.	
Closed-in spaces above the Tonnage Deck, if any.		On account of spaces occupied by Seamen or Apprentices and appropriated to their use and kept free from goods or stores of every kind not being the personal property of the crew.	
Space or spaces between Decks.		These spaces are the following, namely:—	
Poop			
Forecastle			
Round-House			
Other closed-in spaces, if any, as follows:			
Gross Tonnage		Cubic metres.	
Deduction, as <i>per contra</i>			
Registered Tonnage		TOTAL	

I, the undersigned—
having surveyed the above-named Ship, hereby certify that the above particulars are true.

Dated at—
this—day of

—19 .

Surveyor.

[THE ILLUSORY APPOINTMENTS AND INFANTS' PROPERTY ACT, 1841.]

ACT No. XXIV OF 1841.

An Act for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England, in regard to *the undisposed residue of the effects of Testators*, Illusory Appointments, the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons and other like matters.

1. [Extension of 11 Geo. 4 and 1 Will. 4, c. 46.] Rep. by the Repealing Act, 1868 (VIII of 1868).

Extension of 11 Geo. IV & 1 Wm. IV, chaps. 46 and 65. 2. * * * * The ³Statute 11 George IV & 1 William IV, Chapter 46, entitled "An Act to alter and amend the Law relating to Illusory Appointments," and the ¹Statute 11 George IV & 1 William

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The whole Act, except so far as it relates to illusory appointments and infants, and except s. 5, was repealed by the Repealing Act, 1868 (8 of 1868).

The Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

the Districts of Hazáribágh, Lohárdága (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44) and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum, see Gazette of India, 1881, Pt. I, p. 504;

the Scheduled Districts in Ganjam and Vizagapatam, see Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 870.

² The words "And it is hereby enacted, that" at the beginning of s. 2 and the words "from the first day of January next" after the word "shall" in the same section were repealed by the Repealing Act, 1874 (16 of 1874).

³ 11 GEO. IV AND WM. IV, CHAP. XLVI.^a

An Act to alter and amend the Law relating to Illusory Appointments.

[16th July, 1830.]

Preamble.

Whereas, by deeds, wills, and other instruments, powers are frequently given to appoint real and personal property amongst several objects, in such manner that none of the objects can be excluded by the donee of the power from a share of such property; and whereas appointments in exercise of such powers whereby an unsubstantial, illusory, or nominal share of the property affected thereby is appointed to or left unappointed to devolve upon any one or more of the objects thereof, are invalid in equity, although the like appointments are good and binding at law: And whereas considerable inconvenience hath arisen from the rule of equity relative to such appointments, and it is expedient that such appointments should be as valid in equity as at law; Be it therefore enacted, etc.

Illusory appointments shall be valid in equity as well as at law.

That no appointment which from and after the passing of this Act shall be made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity, on the ground that an unsubstantial, illusory, or nominal share only shall be thereby appointed to or left unappointed to devolve upon any one or more of the objects of such power; but that every such appointment shall be valid and effectual in equity as well as at law, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or nominal share of the property subjected to such power.

^a Short title, "The Illusory Appointments Act, 1830." See the Short Titles Act, 1896 (59 & 60 Vict., c. 14).

IV, chapter 65, entitled "An Act for consolidating and amending the Law relating to property belonging to infants, feme-coverts, idiots,

2. Provided always, and be it further enacted, that nothing in this Act contained shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid which shall declare the amount of the share or shares from which no object of the power shall be excluded.

3. Provided also, and be it further enacted and declared, that nothing in this Act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power.

¹ 11 GEO. IV & 1 WM. IV. CHAP. LXV.^a

An Act for consolidating and amending the Law relating to Property belonging to Infants, Feme-Coverts, Idiots, Lunatics, and Persons of unsound Mind.

[23rd July, 1830.]

12. And be it further enacted, that in all cases where any person, being under the age of twenty-one years.....is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, and otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her guardian or other person on his behalf.....to apply to the Court of Chancery in England, the Courts of Equity of the Counties Palatine of Chester, Lancaster and Durham, or the Courts of Great Session of the Principality of Wales respectively, as to land within their respective jurisdiction, by petition or motion in a summary way; and by order and direction of the said Courts respectively such infant.....or his guardian, or any person appointed in the place of such infant.....by the said Courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place for the benefit of such person under the age of twenty-one years,.....one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise as the said Courts shall respectively direct.

14. And be it further enacted, that every sum of money and other consideration paid by any guardian.....or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant.....for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said Courts and Lord Chancellor, intrusted as aforesaid, respectively shall direct and determine; and as to leases to be made upon surrenders by feme-coverts, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises for the benefit of the person who shall advance the same.

15. And be it further enacted, that every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devises, and conditions, as the lease to be from the same time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

16. And be it further enacted, that where any person, being under the age of twenty-one years,.....might, in pursuance of any covenant or agreement, if not under disability be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any

^a Short title, "The Infants' Property Act, 1830." See the Short Titles Act, 1896 (59 & 60 Vict., c. 14).

As to the repeal of parts of the Act in England, see the Statute Law Revision Act, 1873 (36 & 37 Vict., c. 91).

lunatics and persons of unsound mind," shall * * * * be extended to the territories of the East India Company, as far as it is applicable to the same.

3. [*Extension of 11 Geo. IV and 1 Wm. IV, c. 60.*] Rep. by the *Indian Trustee Act, 1866 (XXVII of 1866).*

term or number of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant,.....by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian,.....or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the Court by such order shall direct.

Court of
Chancery
may autho-
rize leases to
be made of
lands belong-
ing to infants
when it is to
the benefit
of the estate.

17. And be it further enacted, that where any person, being an infant under the age of twenty-one years, is or shall be seized or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a lease or underlease should be made of such estates for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or the working of mines, or otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants as the said Court of Chancery shall direct; but in no such case shall any fine or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases, and covenants and provisions therein, shall be settled and approved or by a Master of the said Court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the Master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained; provided that no lease be made of the capital mansion house and the part and grounds respectively held therewith for any period exceeding the minority of any such infant.

* * * * *

So much of
I. G. I, c. 10,
s. 9, as enacts
that agree-
ments of
guardians
shall bind in-
fants, repea-
led.

*25. And whereas by an Act passed in the first year of the reign of King George the First intituled *An Act for making more effectual Her late Majesty's gracious Intentions for augmenting the Maintenance of the poor Clergy*,¹ it was enacted that the agreements of guardians for and on behalf of infants or idiots under their guardianship should be as good and effectual to all intents and purposes as if the said infants or idiots had been of full age and of sound mind, and had themselves entered into such agreements: And whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued; Be it further enacted, that so much of the said Act of the first year of the reign of King George the First, as is hereinbefore recited, shall be and the same is hereby repealed.

Such agree-
ments may
be made by
guardians
with the
approbation
of the Court.

26. And be it further enacted, that the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last recited Act, if the same had not been repealed.

^a This section has been rep. in England by the Statute Law Revision Act, 1875 (36 & 37 Vict., c. 91), Schedule.

^b "The Queen Anne's Bounty Act, 1716." See the Short Titles Act (59 & 60 Vict., c. 14).

4. ¹* * * * Section ²* * 11 of the 11 ³George IV and Extension of
1 William IV, chapter 47, entitled "an Act for consolidating and 11 Geo. IV
amending the laws for facilitating the payment of debts out of real and 1 Wm.
Estate," shall ¹* * * be extended to the territories of the East IV, c. 47,
India Company, as far as it is applicable in the same. s. 11.

5. ¹* * * * This Act shall not be construed to affect Saving of
any case which would not have been governed by English law as certain cases.
administered by Her Majesty's Supreme Courts previous to the pas-
sing thereof ¹* *.

32. And be it further enacted that it shall be lawful for the Court of Court of
Chancery, by an order to be made on the petition of the guardian of any Chancery or
infant in whose name any stock shall be standing, or any sum of money, by Exchequer
virtue of any Act for paying off any stock, and who shall be beneficially may order
entitled thereto, or if there shall be no guardian, by an order dividends of
to be made in any cause depending in the said Court, to direct all or any stock belong-
part of the dividends due or to become due in respect of such stocks or any ing to infants
such sum of money, to be paid to any guardian of such infant, or to any to be applied
other person according to the discretion of such Court, for the maintenance for mainte-
and education or otherwise for the benefit of such infant, such guardian or nance.
other person to whom such payment shall be directed to be made being named
in the order directing such payment; and the receipt of such guardian or
other person for such dividends or sum of money, or any part thereof, shall
be as effectual as if such infant had attained the age of twenty-one years,
and had signed and given the same.

¹ The words "And whereas it is expedient to adopt the amendments of the
English Law touching the delay of action, suits, or other proceedings, by
reason of the parol demurring; and touching conveyances made by infants
under order of Courts; it is hereby enacted that", and the words "from the
first day of January next" in s. 4, and the words "And it is hereby provided,
that" in s. 5 were repealed by the Repealing Act, 1874 (16 of 1874).

² The figures and word "10 and" rep. by the Amending Act, 1891 (12 of
1891).

³ 11 GEO. IV & 1 WM. IV, CHAP. XLVII.^a

An Act for consolidating and amending the Laws for facilitating the payment
of debts out of real Estate.

[16th July, 1830.]

XI. ^b And be it further enacted, that where any suit hath been or shall Infants to
be instituted in any Court of Equity, for the payment of any make convey-
debts of any person or persons deceased, to which their heir or heirs, devisee ances under
or devisees, may be subject or liable, and such Court of Equity shall decree order of the
the estates liable to such debts or any of them, to be sold for satisfaction of Court.
such debt or debts, and by reason of the infancy of any such heir or heirs,
devisee or devisees, an immediate conveyance thereof cannot, as the law at
present stands, be compelled, in every such case such Court shall direct, and,
if necessary, compel such infant or infants to convey such estates so to be
sold (by all proper assurances in the law) to the purchaser or purchasers
thereof, and in such manner as the said Court shall think proper and direct;
and every such infant shall make such conveyance accordingly; and every
such conveyance shall be as valid and effectual to all intents and purposes
as if such person or persons, being an infant or infants, was or were at the
time of executing the same of the full age of twenty-one years.

⁴ The words "or any proceedings at Law or in Equity commenced before
the first day of January next" rep. by the Amending Act, 1891 (12 of 1891).

^a Short title, "The Debts Recovery Act, 1830." See the Short Titles Act,
1896 (59 & 60 Vict., c. 14).

^b The initial words "And be it further enacted that" rep. in England by
the Statute Law Revision Act, 1888 (51 & 52 Vict., c. 57), Schedule.

¹[THE INDIAN SLAVERY ACT, 1843.]

ACT NO. V OF 1843.

[7th April, 1843.]

An Act for declaring and amending the Law regarding the condition of Slavery within the territories of the East India Company.

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, to be in force in all the Provinces of India, except the Scheduled Districts.

It has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

It has been declared to be in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, the Western Duárs, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Sub-Division of the Dárjiling District	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum and Pargana Dhálbhum and the Kolhán in the District of Singhbhum	Ditto 1881, Pt. I, p. 504.
The Porahat Estate in the District of Singhbhum	Ditto 1897, Pt. I, p. 1059.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Districts of Kámrup, Naugong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Duárs) and Cachar (excluding the North Cachar Hills)	Ditto 1878, Pt. I, p. 533.
The Gáro Hills, the Khási and Jaintiá Hills, the Nága Hills, the North Cachar Hills in the Cachar District and the Eastern Duárs in the Goálpára District	Ditto 1897, Pt. I, p. 299.

The Scheduled Districts in Ganjam and Vizagapatam. see Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 870

1. ¹* * * * No public officer shall, in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue, sell or cause to be sold any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery. Prohibition of sale of persons or right to his labour on ground of slavery.
2. ²* * * * No rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any Civil or Criminal Court or Magistrate within the territories of the East India Company. Bar to enforcement of rights arising out of alleged property in person as a slave.
3. ²* * * * No person who may have acquired property by his own industry, or by the exercise of any art, calling or profession, or by inheritance, assignment, gift or bequest, shall be dispossessed of such property or prevented from taking possession thereof on the ground that such person or that the person from whom the property may have been derived was a slave. Bar to dis-possession of property on ground of owner's slavery.
4. ³* * * * Any act which would be a penal offence if done to a free man shall be equally an offence if done to any person on the pretext of his being in a condition of slavery. Penal offence against alleged slave.

[THE BOMBAY TOWN-DUTIES ABOLITION
ACT, 1844.]

ACT No. XIX OF 1844.

[14th September, 1844.]

An Act for abolishing town-duties and *mukats*, and all taxes upon trades and professions, within the Presidency of Bombay.

It is hereby enacted that, from the first day of October, 1844, all town-duties, *kasab veras*, *muhtarafas*, *baluteh* taxes and cesses of every kind on trades or professions under whatsoever name levied within the Presidency of Bombay and not forming a part of the land revenue, shall be abolished. Abolition of town-duties and taxes.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

The Districts of Kumáon and Garhwál

See Gazette of India, 1876, Pt. I, p. 606.

The Taráí of the Province of Agra

Ditto 1876, Pt. I, p. 505.

¹ The words "It is hereby enacted and declared, that" rep. by the Repealing Act, 1874 (16 of 1874).

² The words "And it is hereby declared and enacted, that" rep., *ibid*.

³ The words "And it is hereby enacted that" rep., *ibid*.

⁴ Short title given by the Bombay Short Titles Act, 1921, (Bom. Act 2 of 1921).

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Bombay Presidency, except the Scheduled Districts.

¹ [THE LEGAL PRACTITIONERS ACT, 1846.]

ACT NO. I OF 1846.

[7th January, 1846.]

An Act for amending the Law regarding appointment and remuneration of Pleaders in the Courts of the East India Company.

1, 2 & 3. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1874 (VI of 1874).*

Office of
pleader open
to persons
duly certi-
ficated.

4. * * * * The office of pleader in the Courts of the East India Company shall be open to all persons of whatever nation or religion: Provided that no person shall be admitted a pleader in any of those Courts unless he has obtained a certificate in such manner as shall be directed by the Sadr Courts that he is of good character and duly qualified for the office, any law or regulation to the contrary notwithstanding:

Right of bar-
rister to
plead in all
Courts.

5. Provided * * * that every barrister of any of Her Majesty's Courts of Justice in India shall be entitled as such to plead in any of the Sadr Courts of the East India Company, subject however to all the rules in force in the said Sadr Courts applicable to pleaders whether relating to the language in which the Court is to be addressed or to any other matter.

Enactment
to cease to
have force,
except for
specified
purposes.
Private
agreement
between
parties and
pleaders.

6. * * * * Section 52, Regulation II, 1827, of the Bombay Bom. Reg. Code, shall cease to be enforced, excepting for the purpose specified II of 1827 in section 7 of this Act.

7. * * * Parties employing authorized pleaders in the said Courts shall be at liberty to settle with them by private agree-

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 4, to be in force in the Madras and Bombay Presidencies, except the Scheduled Districts.

It has been declared under s. 3 (b) of the Scheduled Districts Act, 1874 (14 of 1874), not to be in force in the Scheduled Districts of Ganjam and Vizagapatam, see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

It is rep. in places to which the Pleaders, Mukhtárs and Revenue Agents Acts, 1865 (20 of 1865), is extended, by s. 3 of that Act, and in places to which the Legal Practitioners Act, 1879 (18 of 1879), applies, by the Legal Practitioners Act, 1884 (9 of 1884), s. 9.

It has been rep. excepting s. 5 in the Province of Bombay by the Bombay Pleaders Act, 1920 (Bom. Act 17 of 1920).

² The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

S. 4 does not extend to barristers and attorneys of the Supreme Courts, see s. 4 of the Pleaders Act, 1853 (20 of 1853), *infra*.

³ The words "nevertheless, and it is hereby enacted" rep. by the Repealing Act, 1874 (16 of 1874), Schedule, Pt. I.

⁴ The words "And it is hereby enacted that" in ss. 6 and 7 rep. by the Repealing Act, 1874 (16 of 1874).

⁵ The words and figures "section 25, Regulation XXVIII, 1814, of the Bengal Code; section 25, Regulation XIV, 1816, of the Madras Code, and" rep. by the Amending Act, 1891 (12 of 1891).

ment the remuneration to be paid for their professional services, and ^{1*} it shall not be necessary to specify such agreement in the vakálatnáma: Provided that when costs are awarded to a party in any regular suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders shall be calculated according to the rules contained in ²[the section of the Regulation] specified in section 6 of this Act; and that when costs are awarded in other cases the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.

Calculation of pleaders, fees out of costs awarded in regular suits.

In other cases.

8. ^{3*} * * Private agreements between parties and their pleaders respecting the remuneration to be paid for professional services shall not be enforced otherwise than by a regular suit.

Enforcement of private agreements.

9. ^{3*} * ^{4*} * Persons taking ^{5*} opinions from authorized pleaders shall be at liberty to settle with them by private agreement the remuneration to be paid for such opinions.

Remuneration for opinions.

10. ^{3*} * * * Whenever a pleader has rendered himself liable to a fine in the Court of a Principal Sadr Amin or Sadr Amin, it shall be competent to such Principal Sadr Amin or Sadr Amin to impose such fine; Provided that an appeal from all orders imposing such fines shall lie to the Zila or City Judge, whose decision thereon shall be final.

Power of Sadr Amin to fine pleader. Appeal.

11. ^{3*} * * The rules applicable to pleaders in the Courts of the Zila and City Judges shall henceforth be applicable, so far as they are capable of application, to pleaders in the Munsifs' Courts.

Rules applied.

12. ^{3*} * * * Whenever a pleader has conducted himself in such a manner in the Court of a Munsif as would have rendered him liable to a fine if he had so conducted himself in the Court of a Zila or City Judge, it shall be competent to such Munsif to impose such fine; Provided that an appeal from all orders imposing such fine shall lie to the Zila or City Judge, whose decision thereon shall be final.

Power of Munsif to fine pleader. Appeal.

13. ^{6*} * * * * Nothing in this Act contained shall apply to vakils who may be employed in the Courts of the Village Munsifs, or before the Village or District pancháyats, or

Act not to affect certain vakils.

¹The word "that" rep. by the Repealing Act, 1876 (12 of 1876) Schedule, Pt. I.

²Subs. by the Amending Act, 1891 (12 of 1891) for "the sections of Regulations".

³The words "And it is hereby enacted that" in ss. 8 to 12 rep. by the Repealing Act, 1874 (16 of 1874).

⁴The words and figures "so much of section 20, Regulation XXVII, 1814, of the Bengal Code, and of section 20, Regulation XIV, 1826, of the Madras Code as prescribes the rates of fees, to be received by authorized pleaders for legal opinions, be rep., and that," rep. by the Repealing Act, 1876 (12 of 1876).

⁵The word "such" rep., *ibid.*

⁶The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874).

before the Collectors of Zilas, under the provisions of Regulations ¹IV, V, ²VII, and XII, 1816 of the Madras Code.

³[THE BENGAL ALLUVION AND DILUVION ACT, 1847.]

ACT No. IX OF 1847.

[8th May, 1847.]

An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of ⁴[West Bengal], Bihar and Orissa.

Repeal of
enactments.

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the ⁵[States] of ⁴[West Bengal], Bihar and Orissa * * * * ; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof except under the provisions of this Act.

¹For Madras Regulation 4 of 1816, the Madras Village Courts Act, 1888 (Mad. Act 1 of 1889), should now be read wherever that Act is in force. See section 2 (3) of that Act.

²Rep. by the Madras Civil Courts Act, 1873 (3 of 1873).

³Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

The Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal, except the Scheduled Districts.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in:—

West Jalpaiguri in the Jalpaiguri

District

See Gazette of India, 1881, Pt. I, p. 74.

The districts of Hazaribagh,
Ranchi, Palamau and Man-
bhum, and Pargana Dhalbhum
and the Kolhan in the district
of Singhbhum, in the Chota
Nagpur Division

Ditto

1881, Pt. I, p. 504.

It has also been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3.

In any district in which a survey has been completed and approved by the Government, a new survey of lands on the banks of rivers or on the seashore may not be ordered to be made for the purposes described in Act 9 of 1847 until ten years have expired from the completion and approval of the previous survey—see the Bengal Survey Act, 1875 (Ben. 5 of 1875), s. 3.

⁴Subs. by the A. O. 1948 for "Bengal".

⁵Subs. by the A. O. 1950 for "Provinces".

⁶The words "and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued" rep. by the Amending Act, 1891 (12 of 1891)

2. ¹* * * The expression ²[State] of Orissa," in this Act, shall be taken to mean only so much of the ³[State] of Orissa ³[as was on the 8th May, 1847] subject to the Government of ⁴[West Bengal].

"State of Orissa" defined.

3. ¹* * * Within the said ⁵[States] it shall be lawful for the ⁶[State Government], in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

Power to direct new surveys of riparian lands.

4. ⁷* * * * * The approval of the revenue-survey of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place on such day as may be specified as the day of such approval in the ⁸[Official Gazette].

Date of approval of surveys.

5. ¹* * * Whenever on inspection of any such new may it shall appear to the local Revenue-authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the *sadar jama* of the said estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the *mufassal jama* of the land lost bears to the *mufassal jama* of the whole estate; but, if the *mufassal jama* of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local Revenue-authorities, then the said local Revenue-authorities shall make a deduction from the *sadar jama* of the estate equal to so much of the whole *sadar jama* of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local Revenue-authorities for the information and orders of the ⁹* * Board of Revenue whose orders thereupon shall be final.¹⁰

Deduction from *jama* of estates from which lands have been washed away.

¹ Formal words rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1950 for "Province".

³ Subs. by the A. O. 1937 for "as is".

⁴ Subs. by the A. O. 1948, for "Bengal".

⁵ Subs. by the A. O. 1950, for "Provinces".

⁶ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Govt. of Bengal".

⁷ The first cl. declaring on what dates approval of the surveys of certain districts shall be deemed to have taken place, rep. by the Repealing Act, 1874 (16 of 1874).

⁸ Subs. by the A. O. 1937 for "Calcutta Gazette".

⁹ The word "*Sadar*" rep. by the Amending Act, 1903 (1 of 1903).

¹⁰ For s. 5A inserted after s. 5 and the amendment to s. 6, as applicable to Bengal and Bihar, see ss. 2 and 3 of the Bengal Alluvion and Diluvion (Amendment) Act, 1940 (Ben. 17 of 1940) and the Bihar Alluvion and Diluvion (Amendment) Act, 1942 (Bihar 4 of 1942).

Assessment
of incre-
ments to
revenue-
paying
estates.

6. ¹* * * Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been added to any estate paying revenue directly to Government, ²[or to any land not subject to the payment of revenue], they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the ³* * Board of Revenue, whose orders thereupon shall be final.

7. [Local Revenue-authorities to take possession of a new island, and to assess and settle the land.] Rep. by the Bengal Alluvion Act, 1868 (Ben. Act IV of 1868).

8. [Exception of certain suits from operation of Act.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Indemnity
clause.

9. ⁴* * No suit or action in any Court of Justice shall lie against the ⁵[Government] or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act.

⁶[THE SUPREME COURTS' OFFICERS TRADING ACT, 1848.]

ACT No. XV OF 1848.

[17th June 1848.]

An Act to forbid trading by the Officers of the Supreme Courts.

Preamble.

For the better discharge of their duties by the officers of the undermentioned Courts of Justice ; It is enacted as follows :—

Prohibition,
in case of
officers of
Supreme

1. No officer of any of the Courts of Judicature established by Royal Charter within the territories subject to the Government of the East India Company, or any Court established for the relief of

¹ Formal words rep. by the Repealing Act, 1874 (16 of 1874).

² Ins. by the Bengal Alluvion and Diluvion (Amendment) Act, 1936 (Ben. 9 of 1936), s. 2.

³ The word "Sadar" rep. by the Amending Act, 1903 (1 of 1903).

⁴ The words "And it is hereby enacted that" rep. by the Repealing Act, 1874 (16 of 1874) and the words "except as regards the proprietary rights to islands" rep. by the Amending Act, 1903 (1 of 1903).

⁵ Subs. by the A. O. 1950 for "Crown" which had been subs. by the A. O. 1937 for "Govt."

⁶ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

insolvent debtors within the said territories, shall directly or indirectly by himself, or by any other person or persons on his behalf, accept from any person or persons any gift or reward for any act or behaviour in his office, other than his legal salary and fees and profits of office, or hold any office in any bank or public company, except as hereinafter excepted or carry on or be concerned in any dealings as a banker or trader or as agent, factor or broker either for his own advantage or for the advantage of any other person or persons, except such dealings as it may be part of the duty of any such officer by virtue of his office to carry on.

Courts,
against
accepting
gifts ;

holding cer-
tain offices ;
carrying on
dealings.

2. This Act shall not be construed to forbid any officer of any of the said Courts, who is also a practising advocate, attorney, solicitor or proctor in any of the said Courts, from taking the usual fees and emoluments of advocates, attorneys, solicitors or proctors, nor to apply to any advocate, attorney, solicitor, proctor, sheriff, assignee, receiver or committee, so far as he is held to be in that capacity merely for some purposes an officer of any of the said Courts.

Exemption of
officers who
are also
advocates,
etc.

3. This Act shall not be construed to forbid any officer of any of the said Courts from holding any unpaid office in any society for charitable purposes or for the advancement of knowledge, or for the encouragement of science, art or manufactures.

Holding un-
paid office in
society.

4. Every officer of any of the said Courts who shall knowingly offend against this Act shall, on conviction thereof, be liable to be punished by deprivation of his office, and also, by the sentence of the Court before which he shall be convicted, may be declared incapable, and in that case shall become incapable, of being appointed to the same or any other office of the same Court, or to serve ¹[Government] ² * * in the territories under the Government of the East India Company, or in such part of the said territories as shall be specified in the sentence, or in the discretion of the Court may be otherwise punished by fine or fine and imprisonment for his misdemeanour as to the Court shall seem fit, regard being had to the nature of his offence.

Punishment
for con-
travention
of Act.

¹Subs. by the A. O. 1950 for "Her Majesty".

²The words "or the East India Company" rep. by the Repealing Act, 1876 (12 of 1876).

¹ [THE BENGAL LANDHOLDERS' ATTENDANCE
ACT, 1848.]

ACT No. XX OF 1848.

[23rd September. 1848.]

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of Land-revenue in the Lower Provinces of the Bengal Presidency.

Preamble.

WHEREAS, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue;

And whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority;

It is enacted as follows:—

Penalty on
landholders
not attend-
ing when
summoned
by Collector.

1. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omis-

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal, except the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in:—

West Jalpaiguri, in the Jalpaiguri District

The Districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum in the Chota Nagpur Division

See Gazette of India, 1881, Pt. I, p. 74.

Ditto 1881, Pt. I, p. 504.

It has also been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (1) and Sch,

sion, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process¹ as is prescribed for the recovery of arrears of revenue.

2. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the ²[State Government]. Levy of fine.
Report of imposition and levy of fine.

3. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal. Appeals from Collector's orders.

4. Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue. Special report of levy exceeding five hundred rupees.

5. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations. Saving of power to fine.

6. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector. "Collector" defined.

7. This Act shall not extend to the North-West Provinces of the Presidency of Bengal. Extent of Act.

³ [THE MADRAS REVENUE COMMISSIONER ACT, 1849.]

ACT No. X OF 1849.

[26th May, 1849.]

An Act for appointing a Commissioner of Revenue at Madras.

WHEREAS it is expedient that the Governor of Fort St. George in Council should be empowered to depute a Member of the Board Preamble.

¹ See the Bengal Public Demands Recovery Act, 1913 (Ben. 3 of 1913), and the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. 4 of 1914).

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

³ Short title given by the Amending Act, 1901 (11 of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 4, and Sch. II to be in force in the whole of the Presidency of Madras except the Scheduled Districts.

It has been declared by notification under s. 3 (b) of the Scheduled Districts Act, 1874 (14 of 1874) not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 872, and Fort St. George Gazette, 1898, Pt. I, p. 667; and in the Butcharti and Guditeru muttas of the East Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553, and by notification under s. 52-A (2) of the G. of I. Act not to apply to the East Godavari Agency—see Fort St. George Gazette, 1931, Pt. I, p. 99.

of Revenue to perform in any of the districts of that Presidency all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively ; It is enacted as follows :—

Power to depute Member to perform duties of Board.

1. The ¹[²State] Government of Madras] may, from time to time whenever ³[it] shall see fit, depute a Member of the Board of Revenue to perform alone, in any of the districts of that Presidency, all or any of the duties which, by the general Regulations and Laws of the Presidency, belong to the Board of Revenue collectively.

Powers of Member so deputed.

2. When a special commission shall be given to a Member of the Board of Revenue under this Act, the Member of the Board named therein shall, by virtue thereof, be empowered to exercise, within the limits of his commission, all the powers and duties which by law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions which shall be prescribed in such commission ; and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his commission, and with regard to all things concerning the revenues of the district included in it, so far as is necessary to give full effect to his commission and to this Act.

Enactments applied to Commissioner.

Publication of commission, and revocation thereof.

3. Every such commission shall be published in the ⁴[Official Gazette], and the Commissioner shall enter on his office from the date of such publication ; and in like manner the revocation or other determination of any such commission shall be published in the ⁴[Official Gazette].

Deposit of records.

4. The correspondence and other documents belonging to any such commission shall be deposited, on the determination thereof, in the office of the Board of Revenue, and shall be deemed records of the said Board.

⁵[THE INDIAN REGISTRATION OF SHIPS ACT (1841) AMENDMENT ACT, 1850.]

ACT No. XI OF 1850.

[15th March, 1850.]

An Act to amend ⁶Act X of 1841.

Preamble.

For amendment of ⁶Act X of 1841, it is enacted as follows :—

1. [Repeal of s. 13 of Act X of 1841.] Rep. by Act XIV of 1870.

¹ Subs. by the A. O. 1937 for "Governor of Fort St. George in Council".

² Subs. by the A. O. 1950 for "Provincial".

³ Subs. by the A. O. 1937 for "he".

⁴ Subs. by the A. O. 1937 for "Fort St. George Gazette".

⁵ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3. It has also been extended to the New Provinces and Merged States by Act 59 of 1949.

⁶ *Supra*.

2. [Passes under Act X of 1841 to ships of Indian States wherever built]. Rep. by the A. O. 1950.

3. All ships or vessels, of whatever rig and of whatever tonnage, owned by ¹[Citizens of India] entitled to registry under Act X of 1841, ²* * * employed only in coasting voyages, or between any port of ³* * * India and the Island of Ceylon ⁴[or Burma] ⁵[or Pakistan] may be registered * * * and the tonnage may be marked, according to such rules⁶ as shall be made from time to time by ⁸[Central Government].

Registry of, and passes to, certain coasting vessels.

4. The owners of coasting vessels, registered under section 3 of this Act, shall pay for each certificate of registry—

Fees for certificates of registry of such vessels.

for a vessel not exceeding the burthen of four tons, one rupee ;

exceeding four tons and not exceeding twenty tons, five rupees ;

exceeding twenty tons and not exceeding eighty tons, seven rupees ;

exceeding eighty tons, for each ton two annas ;

which fees shall ⁹[subject to the provisions of ¹⁰[article 277 of the Constitution] be carried to the credit of the Central Government].

26 Geo. 5,
c. 2.

5. This Act shall be construed with and as part of Act X of 1841.

Construction.

¹¹[THE PUBLIC ACCOUNTANTS' DEFAULT ACT, 1850.]

ACT NO. XII OF 1850.

[22nd March, 1850.]

For avoiding loss by the default of Public Accountants.

For better avoidance of loss through the default of public accountants: It is enacted as follows:—

Preamble.

1. Every public accountant shall give security for the due discharge of the trusts of his office, and for the due account of all

Public Accountants to give security.

¹Subs. by the A. O. 1950 for "British subjects".

²The words "or owned by an Indian State or the Ruler or a subject thereof entitled to passes under Act X of 1841, as amended by this Act" were rep. by the A. O. 1950.

³The words "the Continent of" rep. by the A. O. 1937.

⁴Ins. by the A. O. 1937.

⁵Ins. by the A. O. 1948.

⁶The words "and obtain passes" rep. by the A. O. 1950.

⁷The rules made under this section, see Genl. R. & O. Vol. II, p. 5.

⁸Subs. by the A. O. 1937 for "the Governor or Governor in Council of each Presidency".

⁹Subs. by the A. O. 1937 for "be carried to the credit of the Govt. of the Presidency in which they are levied".

¹⁰Subs. by the A. O. 1950 for "section 143 (2) of the Government of India Act, 1935".

¹¹Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

moneys which shall come into his possession or control, by reason of his office.

Amount and kind of security, and with what sureties.

2. In default of any Act having special reference to the office of any public accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties (regard being had to the nature of the office), as shall be required by any rules made or to be made from time to time, by the authority by which each public accountant is appointed to his office, ¹* * * *.

"Public accountant" defined.

²[3. For the purposes of sections 1 and 2 of this Act, the expression "public accountant" means any person who as Official Assignee or Trustee, or as sarbarahkar, is entrusted with the receipt, custody or control of any moneys or securities for money, or the manage-

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared to be in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following other Scheduled Districts, namely :—

West Jalpaiguri, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Sub-Division of the Dárjiling District	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum	Ditto 1881, Pt. I, p. 504.
Kumáon and Garhwál	Ditto 1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870, and

Fort St. George Gazette, 1898, Pt. I, p. 666.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

The Tarái of the Province of Agra	See Gazette of India, 1876, Pt. I, p. 505.
Ajmer and Merwára	Ditto 1878, Pt. I, p. 380.
Coorg	Ditto 1911, Pt. I, p. 1477.

As to the partial repeal of the Act in the Bombay Presidency, see the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), s. 2, and Sch. A. As to its repeal in Assam, in which it was declared to be in force by notifications under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), Gazette of India, 1878 and 1879, Pt. I, pp. 523 and 631, respectively, see the Assam Land and Revenue Regulation, 1886 (1 of 1886).

¹The words "subject to the approval of the Governor or Governor in Council of the Presidency or place" rep. by the A. O. 1937.

²Subs. by the A. O. 1937 for the original s. 3.

ment of any lands belonging to any other person or persons,¹ and for the purposes of sections 4 and 5 of this Act the expression shall also include any person who, by reason of any office held by him in the service of ²[the Central Government or the Government of a Part A State], is entrusted with the receipt, custody or control of any moneys or securities for money, or the management of any lands belonging ³[to such Government].

4. The person or persons at the head of the office to which any public accountant belongs may proceed against any such public accountant and his sureties for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land-revenue due to Government. Prosecution of accountants and sureties.

5. All Regulations and Acts now or hereafter to be in force for the recovery of arrears of land-revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for any such arrear shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such public accountant⁴. Enactments applied to proceedings by and against accountants.

6. [Validation of former rules. Rep. by the Repealing Act 1870 (XIV of 1870).]

[THE JUDICIAL OFFICERS' PROTECTION ACT, 1850.]

ACT No. XVIII OF 1850.

[4th April, 1850.]

An Act for the protection of Judicial Officers.

For the greater protection of Magistrates and others acting judicially ; It is enacted as follows :-- Preamble.

1. No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Non-liability to suit of

¹ In the U. P. every manager or other servant of the Court of Wards entrusted with the receipt, etc., of moneys or securities for money on behalf of the Court of Wards has been declared to be a public accountant within the meaning of this Act, see U. P. Court of Wards Act, 1912 (U. P. Act 4 of 1912).

² Subs. by the A. O. 1950 for "the Crown in India".

³ Subs. by the A. O. 1950 for "to the Crown".

⁴ For the law relating to the recovery of revenue-arrears, see the Revenue Recovery Act, 1890 (1 of 1890).

⁵ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3 ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936) s. 3 and Sch.; in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.; and in Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2.

officers acting judicially, for official acts done in good faith, and of officers executing warrants and orders.

Court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: Provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.¹

It has also been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Taluqs of Bhadrachalam, Rakapilli and the Rampa Country	See Gazette of India, 1879, Pt. I, p. 630.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
	and Fort St. George Gazette, 1898, Pt. I, p. 666.
The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm, and Pargana Dhálbhūm and the Kolhán in the District of Singhbhūm	See Gazette of India, 1881, Pt. I, p. 504.
West Jalpáiguri and the Western Hills of Dárjiling, the Dájiling Tarái and the Damson Sub-Division of the Dárjiling District	Ditto 1881, Pt. I, p. 74.
Kumáon and Garhwál	Ditto 1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the Central Provinces	Ditto 1879, Pt. I, p. 771.
Coorg	Ditto 1879, Pt. I, p. 747.
The Districts of Kámrup, Nowgong, Darrang, Sibságar, Lakhimpur, Goalpara (excluding the Eastern Duárs) and Cachar (excluding the North Cachar Hills)	Ditto 1878, Pt. I, p. 633.
The Gáro Hills, the Khási and Jaintiá Hills, the Nága Hills, the North Cachar Hills in the Cachar District and the Eastern Duárs in the Goalpara District	See Gazette of India, 1897, Pt. I, p. 299.
The Porahat Estate in the Singhbhūm District	Ditto 1897, Pt. I, p. 1059.
It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—	
The Tarái of the Province of Agra	See Gazette of India, 1876, Pt. I, p. 505.
Ajmer and Merwára	Ditto 1879, Pt. I, p. 380.
It has also been extended to the New Provinces and Merged States see Act 59 of 1949.	

¹As to procedure for instituting criminal prosecutions against Judges and public servants, see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 197.

¹[THE APPRENTICES ACT, 1850.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Apprenticing of child between ten and eighteen years.
2. Evidence of age in questions as to right to service.
3. Powers of Magistrate or Justice acting for orphans, etc.
4. Apprenticing of child brought up by public charity.
- 5 to 7. [*Repealed.*]
8. Form and contents of contract of apprenticeship.
9. Signatures to contract.
10. Contract not valid unless essential as prescribed and deposited. Copies to be given to parties.
11. Alteration of terms of service and termination of contract.
12. Assignment of apprentice to new master.
13. Powers of Magistrate in case of complaint by apprentice against master.
14. Powers of master or his agent to chastise apprentice. Liability of master or agent for assault, etc.
15. Power of Magistrate in case of complaint by master against apprentice.
16. Cancellation of contract for misconduct of apprentice.
17. Appropriation of sum recovered for apprentice on cancellation of contract.
18. Limitation of complaint of master against apprentice ; of apprentice against master.
19. Effect of death of master during apprenticeship. Offer by representative of master to continue apprentice.
20. Offer to be certified on original contract and copies.
21. Maintenance of apprentice whose master dies. Apprentice to continue to serve.
22. Effect of insolvency of master during apprenticeship.
23. Persons amenable to jurisdiction of Magistrates' Courts.
24. Appeal from orders of Mufassal Magistrates.
25. Interpretation of terms.

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

¹ACT NO. XIX OF 1850.

[11th April, 1850.]

Concerning the binding of Apprentices.

Preamble.

FOR better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood ; It is enacted as follows:—

Apprenticing of child between ten and eighteen years.

1. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.

Evidence of age in questions as to right to service.

2. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

¹ This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri, the Western Duárs, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Sub-Division of the Dárjiling District	See Gazette of India, 1881, Pt. I, p. 74
The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum	Ditto 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	See Gazette of India, 1898, Pt. I, p. 870.
Assam (except the North Lushai Hills)	Ditto 1897, Pt. I, p. 299.
It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—	
Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606.
The Tarái of the Province of Agra	Ditto 1876, Pt. I, p. 505.
It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled Districts of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.	

Instruments of apprenticeship executed by a Magistrate under this Act, or by which a person is apprenticed by or at the charge of a public charity, are exempted from stamp duty by the Stamp Act, 1899 (2 of 1899), Sch. I, Art. 9.

It has also been extended to the New Provinces and Merged States see Act 59 of 1949.

3. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under the Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

Powers of Magistrate or Justice acting for orphans, etc.

4. An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.

Apprenticing of child brought up by public charity.

5. [Apprenticing of such boy in sea service.] Rep. by the Indian Merchant Shipping Act, 1923 (XXI of 1923), s. 296.

6. [Apprenticing of such boy in ship of the East India Company.] Rep. by the Repealing Act, 1870 (XIV of 1870).

7. [Who to be agent of master of apprentice serving in ship.] Rep. by the Indian Merchant Shipping Act, 1923 (XXI of 1923), s. 296.

8. Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

Form and contents of contract of apprenticeship.

9. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but when the apprentice is bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer shall be sufficient on behalf of the persons binding the apprentice.

Signatures to contract.

10. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed,¹ * * * ; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the Magistrate² * * * .

Contract not valid unless essential as prescribed and deposited. Copies to be given to parties.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice if he is above the age of fourteen

Alteration of terms of service and termination of contract.

¹ The words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" rep. by the Indian Merchant Shipping Act, 1923 (21 of 1923), s. 296.

² The words "or Registering Officer" in ss. 10 to 12 rep., *ibid.*

years: Provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section ¹[9] of this Act; and the Magistrate ²* * * shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

Assignment
of apprentice
to new
master.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof: Provided that such person shall by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate ²* * * according to the form given in Schedule (B) annexed to this Act.

Powers of
Magistrate
in case of
complaint by
apprentice
against
master.

13. Upon complaint made to any Magistrate in the said territories³ by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint;

and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees;

and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and, if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

¹ Subs. for "8" by the Amending Act, 1891 (12 of 1891).

² See footnote 2 on pre-page.

³ i.e., the Provinces of India, the reference being to the expression "territories under the Government of the East India Company" which occurred in s. 5 *supra*, since repealed.

14. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child ; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

Powers of master or his agent to chastise apprentice.

Liability of master or agent for assault, etc.

15. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order ; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped : or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

Power of Magistrate in case of complaint by master against apprentice.

16. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved ; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved ; and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case ; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

Cancellation of contract for misconduct of apprentice.

17. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

Appropriation of sum recovered for apprentice on cancellation of contract.

18. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act unless it be brought

Limitation of complaint of master

against
apprentice.

within one month after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories ; and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act unless it be brought within three months after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

of apprentice
against
master.

Effect of
death of
master
during
apprentice-
ship.

19. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined ; and a proportionate part, corresponding to the unexpired portion of the term of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same ; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract ; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

Offer by
representa-
tive of
master to
continue
apprentice.

Offer to be
certified on
original
contract and
copies.

20. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors ¹[or] administrators on the original contract of apprenticeship, and also on the office copies thereof, by the Magistrate ²* * * and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of the apprenticeship.

Maintenance
of apprentice
whose
master dies.
Apprentice to
continue to
serve.

21. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him : Provided that during such three months such apprentice shall continue to live with and serve as an apprentice, the executors or administrators of such master or such person as they appoint.

Effect of
insolvency of
master dur-
ing
apprentice-
ship.

22. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship ; and, if any premium was paid on binding him as an apprentice, he or a person by whom he was bound shall be entitled to claim the amount thereof as a debt against the estate of the bankrupt or insolvent.³

¹ Subs. for "and" by the Amending Act, 1891 (12 of 1891).

² The words "or Registering Officer" rep. by the Indian Merchant Shipping Act, 1923 (21 of 1923).

³ Cf. the Bankrupt Law Consolidation Act, 1849 (12 & 13 Vict., c. 106), s. 170.

23. For the purposes of this Act all ¹[citizens of India], wherever or of whatever parents born, as well as other persons in ²[Part A States or Part C States], without the towns of Calcutta and Madras and the town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of ²[Part A States or Part C States].

Persons amenable to jurisdiction of Magistrates' Courts.

24. An appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

Appeal from orders of Mufassal Magistrates.

25. In this Act the words "master", "owner", "person", and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

Interpretation of terms.

SCHEDULE A.

FORM OF AGREEMENT.

This agreement made the _____ day of _____ in the year _____ between A. B., of _____, and C. D., of _____ witnesseth that the said A. B. doth this day bind E. F., a boy (or girl) of the age of _____ years completed, son (or daughter) of the said A. B. (or otherwise describing the relation in which A. B. and E. F. stand), to dwell with and serve the said C. D., as apprentice, from this day forth for _____ years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said C. D., according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly and obediently, in all things, towards the said C. D. and his (or her) family. And the said C. D. for himself (or herself) and his (or her) executors and administrators, in consideration [of the _____ premium or sum of _____ paid by the said A. B. to the said C. D., the receipt whereof the said C. D. hereby acknowledges, and] of the faithful service of the said E. F., doth covenant and agree with the said A. B., his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said E. F., in the best way and manner that he (or she) can, the trade (craft or employment) of a _____ during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice: (and further, *here insert any special covenants*).

—If there is no premium the words between brackets may be omitted.

¹ Subs. by the A. O. 1950 for "British subjects".

² The original words "the territories under the Government of the East India Company" and "the East India Company" have successively been amended by Act 16 of 1874, A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

In witness whereof the parties have hereunto set their hands and seals the day and year above written.

A. B.



C. D.



SCHEDULE B.

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the Agreement.)

Be it known to all men that on the _____ day of _____ in the year _____ personally appeared before G. H., Magistrate of _____, C. D., of _____ with E. F., his (or her) apprentice and J. K., of _____, and desired that the agreement of apprenticeship whereby the said E. F. was bound to the said C. D. might be assigned and made over to the said J. K., and the said G. H., having satisfied himself, by personal examination of the said E. F. and by other lawful ways and means, that such assignment is for the benefit of the said E. F., and is made with the consent of [the said E. F., and of] all persons whose consent

If E. F. is not above the age of fourteen years, the words between brackets may be omitted.

thereunto by law is required, doth allow such assignment; and the contract of apprenticeship whereby the said E. F. was on the _____ day of _____ in the year _____ bound to the said C. D. as an apprentice to learn the trade (craft or employment) of a _____ shall henceforth endure, unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and stead of the said C. D., and shall be bound, for himself (or herself), his (or her) executors or administrators, to fulfil the covenants by the said C. D. to be performed, and the said E. F. shall henceforth be bound unto the said J. K., in like manner as he (or she) was by the said agreement bound unto the said C. D.

C. D.

E. F.

J. K.

In witness whereof the said C. D., E. F., and J. K. have hereunto set their hands before me the day and year above written.

G. H.,
Magistrate.

[THE CASTE DISABILITIES REMOVAL ACT, 1850.]

ACT No. XXI OF 1850.

[11th April, 1850.]

An Act for extending the principle of section 9, Regulation VII, 1832, of the Bengal Code throughout the Territories subject to the Government of the East India Company.

Ben. Reg.
VII of 1832.

WHEREAS it is enacted by section 9, Regulation VII, 1832, of the Preamble.
Bengal Code,² that “whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindu and the other of the Muhammadan persuasion, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasions the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled”; and whereas it will be beneficial to extend the principle of that

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mán- bhum, and Pargana Dhál- bhum and the Kolhan in the District of Singhbhum	Ditto 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
Coorg	Ditto 1879, Pt. I, p. 747.
Assam (except the North Lushai Hills)	Ditto 1897, Pt. I, p. 299.
The Porahat Estate in the Sing- bhum District	Ditto 1897, Pt. I, p. 1059.

It has been extended by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606.
The Taráí of the Province of Agra	Ditto 1876, Pt. I, p. 505.

It has also been extended to the New Provinces and Merged States, see Act 59 of 1949.

² Rep. by the Bengal Civil Courts Act, 1871 (6 of 1871), which was rep. by the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (12 of 1887).

enactment throughout the territories subject to the Government of the East India Company; It is enacted as follows:—

Law or usage which inflicts forfeiture of, or affects, rights on change of religion or loss of caste to cease to be enforced. 1. So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.

¹[The FORFEITED DEPOSITS ACT, 1850.]

ACT No. XXV OF 1850.

[14th June, 1850.]

An Act for the forfeiture to Government of deposits made on incomplete sales of land under ²Regulation 8, 1819
* * * *

Preamble. WHEREAS *patnidars* ⁴* * * fraudulently avail themselves of the ⁵provision in section 9, Regulation 8, 1819, of the Bengal Code * * * * that forfeited deposits at sales of land ⁷* * * for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. [Repeals.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Application of forfeited deposits. 2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

¹ Short title given by the Amending Act, 1897 (5 of 1897), Sch. III.

Since this Act supplements the Bengal Patni Taluks Regulation, 1819 (8 of 1819), it must be taken to have been passed, like that Regulation, for the whole of the former Province of Bengal.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the Districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum in the Chota Nagpur Division, see Gazette of India, 1881, Pt. I, p. 504.

The Act has also been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (1) and Sch.

² The Bengal Patni Taluks Regulation, 1819.

³ The words and figures "and Act 4, 1846" rep. by the Amending Act, 1891 (12 of 1891).

⁴ The words "and judgment-debtors," rep., *ibid*.

⁵ The provision referred to was rep. by s. 1 of the present Act.

⁶ The words and figures "and in section 5, Act 4, 1846," rep. by the Amending Act, 1891 (12 of 1891).

⁷ The words "in execution of decrees or" rep., *ibid*.

¹[THE STATE PRISONERS ACT, 1850.]

ACT NO. XXXIV OF 1850.

[23rd August, 1850.]

An Act for the better custody of State Prisoners.

* * * * *

Ben. Reg.
III of 1818.

³[1. (1) The warrant of commitment of any State prisoner, under the Bengal State Prisoners Regulation, 1818, may, if it is issued by virtue of the powers conferred by that Regulation on the Central Government, be directed to the commandant of any fortress, or the officer in charge of any jail or place, anywhere in any ⁴[Part A State] or ⁵[Part C State] and may, if it is issued by virtue of the powers conferred by that Regulation on ⁶[State] Governments, be directed to the commandant of any fortress, or the officer in charge of any jail or place, anywhere within the ⁷[State] in question; but any such warrant issued under that Regulation, whatever the powers by virtue of which it is issued, shall be sufficient authority for the arrest of the State prisoner anywhere in any ⁴[Part A State] or ⁵[Part C State] and for his detention until he can be handed over to the commandant or officer to whom the warrant is directed, or dealt with in accordance with sub-section (1) of section five of the State Prisoners Act, 1858: ^{III of 1858.}

Persons to whom warrants of commitment may be addressed and effect of warrants of commitment.

Provided that a State prisoner shall not be arrested under a warrant issued by virtue of the powers conferred by the said Regulation on ⁶[State] Governments, except with the consent of the Government of the ⁷[State] in which he is arrested.

(2) This section applies throughout ⁸[the whole of India except Part B States].]

2. [Regulation III of 1818 extended.] Rep. by the A. O. 1937.

3. [Confinement of State Prisoners legalized.] Rep. by the Amending Act, 1891 (XII of 1891).

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts by the Laws Local Extent Act, 1874 (15 of 1874), s. 3; in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3; in the Khondmals District by the Khondmals Laws Regulation 1936 (4 of 1936), s. 3; in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.; in the Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2. It has also been extended to the New Provinces and Merged States, see Act 59 of 1949.

² The preamble was rep. by the A. O. 1937.

³ Subs. by the A. O. 1937 for the original section.

⁴ Subs. by the A. O. 1950 for "Governor's Province".

⁵ Subs. by the A. O. 1950 for "Chief Commissioner's Province".

⁶ Subs. by the A. O. 1950 for "Provincial".

⁷ Subs. by the A. O. 1950 for "Province".

⁸ Subs. by the A. O. 1950 for "the Provinces (including Berar)", the words "the Provinces" being subs. by the A. O. 1948 for "British India".

[THE PUBLIC SERVANTS (INQUIRIES) ACT, 1850.]

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2. Articles of charge to be drawn out for public inquiry into conduct of certain public servants.
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4. Conduct of Government prosecution.
5. Charge by accuser to be written and verified.
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7. Power of Government to abandon prosecution and to allow accuser to continue it.
8. Powers of Commissioners.
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9. Penalty for disobedience to process.
10. Copy of charge and list to be furnished to accused.
11. Procedure at beginning of enquiry.
Non-appearance of accused and admission of charge.
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13. Evidence for prosecution and examination of witnesses.
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14. Power to admit or call for new evidence for prosecution.
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15. Defence of accused.
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16. Evidence for defence, and examination of witnesses.
17. [*Repealed.*]
18. Notes of oral evidence.
19. Inquiry when closed with defence.
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Accused not entitled to adjournment.
20. Power to require amendment of charge and to adjourn.
Reasons for refusing adjournment to be recorded.
21. Report of Commissioners' proceedings.
22. Power to call for further evidence or explanation.
Inquiry into additional articles of charge.
Reference of report of special commissioners' Final orders.
23. Definition of "Government".

Short title given by the Public Servants (Inquiries) Act (1850) Amendment Act, 1897. (1 of 1897).

SECTIONS.

24. Saving of enactments as to dismissal of certain officers.
Commission under Act for their trial.
25. Saving of power of removal without inquiry under Act.

¹ACT No. XXXVII OF 1850.

[1st November 1850.]

For regulating Inquiries into the behaviour of Public Servants.

WHEREAS it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable ²[from their appointments] without the sanction of Government, and to make the

¹This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3 and partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

It has been declared by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribagh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dálbhum and the Kolhán in the District of Singbhum	Ditto 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
Assam (except the North Lushai Hills)	Ditto 1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto 1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606.
The Tarái of the Province of Agra	Ditto 1876, Pt. I, p. 505.

As to the application of this Act in cases under the Bombay and Madras Civil Courts Acts, see the Bombay Civil Courts Act, 1869 (14 of 1869), s. 33, and the Madras Civil Courts Act, 1873 (3 of 1873), s. 20. For application of this Act to enquiries into the alleged misconduct of a Munsif, see the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (12 of 1887), s. 28 (3).

It has been extended to the New Provinces and Merged States, see Act 59 of 1949.

² Ins. by the Public Servants (Inquiries) Act (1850) Amendment Act, 1897 (1 of 1897).

same uniform throughout ¹* * * ²[India]; It is enacted as follows:—

1. [Repeal of Acts.] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

Articles of charge to be drawn out for public inquiry into conduct of certain public servants.

2. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of ³[the Government not removable from his appointment without the sanction of the Government], it ⁴[may] cause the substance of the imputations to be drawn into distinct articles of charge, and ⁴[may] order a formal and public inquiry to be made into the truth thereof.

Authorities to whom inquiry may be committed. Notice to accused.

3. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government, commissioners for the purpose: notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

Conduct of Government prosecution.

4. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

Charge by accuser to be written and verified. Penalty for false accusation. Institution of inquiry by Government.

5. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser; and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury, but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

Security from accuser left by Government to prosecute.

6. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

Power of Government to abandon prosecution and to allow accuser to continue it.

7. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

¹ The words "the territories under the Govt. of" rep. by the A. O. 1948.

² Subs. for "the East India Company" by the Public Servants (Inquiries) Act (1850) Amendment Act, 1897 (1 of 1897).

³ Subs. for "the East India Company, not removed from his office without the sanction of the same Govt.", *ibid.*

⁴ Subs. by the A. O. 1937 for "shall".

8. The commissioners shall have the same power of punishing attempts and obstructions to their proceedings, as is given to Civil and Criminal Courts by ¹[the Code of Criminal Procedure, 1898,] and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the Zila and City Judges, except that all process to cause the attendance of witnesses or other compulsory process, shall be served through and executed by the Zila or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature² thereto. When the commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

Powers of commissioners.

Their protection.

Service of their process.

Powers of Court, etc. acting under commission.

9. All persons disobeying any lawful process issued as aforesaid for the purposes of the commission shall be liable to the same penalties as if the same had issued originally from the Court or other authority through whom it is executed.

Penalty for disobedience to process.

10. A copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.

Copy of charge and list to be furnished to accused.

11. At the beginning of the inquiry the prosecutor shall exhibit the articles of charge to the commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "guilty" or "not guilty" to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses, or without reasonable cause neglects, to appear to answer the charge either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.

Procedure at beginning of inquiry. Non-appearance of accused and admission of charge.

12. The prosecutor shall then be entitled to address the commissioners in explanation of the articles of charge, and of the evidence by which they are to be proved: his address shall not be recorded.

Prosecutor's right of address.

13. The oral and documentary evidence for the prosecution shall then be exhibited; the witnesses shall be examined by or on behalf of the prosecutor and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the commissioners, who also may put such questions as they think fit.

Evidence for prosecution and examination of witnesses. Re-examination by prosecutor.

¹Subs. for "Act XXX, 1841," by the Repealing and Amending Act, 1914 (10 of 1914).

²See the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104), s. 11, which was rep. and re-enacted by the G. of I. Act.

Power to
admit or call
for new evi-
dence for
prosecution.

14. If it shall appear necessary before the close of the case for the prosecution, the commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence ; and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

Accused's
right to
adjournment.

Defence of
accused.

To be re-
corded only
when written.

15. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded ; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

Evidence for
defence and
examination
of witnesses.

16. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the commissioners according to the like rules as the witnesses for the prosecution.

17. [*Examination of witnesses and evidence by prosecutor.*] Rep. by the Repealing Act, 1876 (XII of 1876).

Notes of
oral evidence.

18. The commissioners or some person appointed by them shall take notes in English of all oral evidence, which shall be read aloud to each witness by whom the same was given, and, if necessary, explained to him in the language in which it was given, and shall be recorded with the proceedings.

Inquiry when
closed with
defence.
Prosecutor
when entitled
to reply and
give
evidence.
Accused not
entitled to
adjourn-
ment.

19. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence ; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

Power to
require
amendment
of charge
and to
adjourn.

20. When the commissioners shall be of opinion that the articles of charge or any of them are not drawn with sufficient clearness and precision, the commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused on the ground of sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the commissioners shall record the application, and their reasons, for refusing to comply with it.

Reason
for refusing
adjournment
to be
recorded.

Report of
commis-
sioners' pro-
ceedings.

21. After the close of the inquiry the commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the

articles of charge separately, with such observations as they think fit on the whole case.

22. The Government, on consideration of the report of the commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional articles of charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

Power to call for further evidence or explanation. Inquiry into additional articles of charge. Reference of report of special commissioners' Final orders.

23. ¹[In this Act, "the Government" means the Central Government in the case of persons employed under that Government and the ²[State] Government in the case of persons employed under that Government.]

Definition of "Government".

24. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sadr Amins or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

Saving of enactments as to dismissal of certain officers. Commission under Act for their trial.

25. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

Saving of power of removal without inquiry under Act.

⁴[THE INDIAN TOLLS ACT, 1851.]

ACT NO. VIII OF 1851.

[4th July, 1851.]

An Act for enabling Government to levy Tolls on Public Roads and Bridges.

WHEREAS it is expedient to enable Government to levy tolls upon roads and bridges; It is enacted as follows:—

Preamble.

1. [Repeal of Acts.] Rep. by the Repealing Act, 1870 (XIV of 1870).

¹ Subs. by the A. O. 1937 for the original section.

² Subs. by the A. O. 1950 for "Provincial".

³ Rep., as to the Lower Provinces and North-Western Provinces of Bengal, by the Principal Sadr Amins Act, 1868 (16 of 1868).

⁴ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act should be read with the Indian Tolls Act, 1864 (15 of 1864), and the Indian Tolls Act, 1888 (8 of 1888).

Extent.

¹[1-A. This Act extends to the territories administered on the fourth of July, eighteen hundred and fifty-one, by the Governor of the Presidency of Fort William in Bengal, the Lieutenant-Governor of North-Western Provinces of Bengal and the Governor of the Presidency of Fort St. George in Council.] -

Power to
cause levy of
tolls on
roads and
bridges
within cer-
tain rates,
and to
appoint
collectors.
Collectors'
responsibili-
ties.

2. ²[The ³[State] Government] may cause such rates of toll, * * * as ⁵[it thinks fit], to be levied upon any road or bridge which has been, or shall hereafter be, made or repaired ⁶[at the expense of the Central or any ³[State] Government]; and may place the collection of such tolls under the management of such persons as may appear to ⁷[it] proper: and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land-revenue.

¹ Ins. by the A. O. 1937 under s. 1 of Act 8 of 1888. This Act is deemed to be in force throughout the territories administered by the Lieutenant-Governor of the Punjab on the 5th September 1888 and to have been in force, from the 21st August 1857, in the territories for the time being administered as part of the Punjab.

It has been extended under s. 3 of the Act 15 of 1864 to Ajmer and Merwara: see Gazette of India, 1889, Part II, p. 562.

It has been declared in force in the C. P. and the Sambalpur District by the C. P. Laws Act, 1875 (20 of 1875), s. 3; in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh,
Lohárdaga (now the Ranchi
District, see Calcutta Gazette,
1899, Pt. I, p. 44), and Mán-
bhum, and Pargana Dhálbhum
and Kolhán in the District of
Singbhum

See Gazette of India, 1881, Pt. I, p. 504.

The District of Lahaul Ditto 1886, Pt. I, p. 301.

It has been extended by notification under s. 5 of the last-mentioned Act, to the Scheduled District of Coorg, see Gazette of India, 1878, Pt. I, p. 45; to the Scheduled Districts in Ganjam and Vizagapatam, see *ibid*, 1899, Pt. I, p. 720; to the Ducharti and Guditeru Muttahs, Yellavaram taluk, East Godavari Agency, see Notification No. 110, dated 22nd April 1927, Fort St. George Gazette, 1927, Pt. I, p. 661, and to the District of Darjeeling; see Calcutta Gazette, 1934, Pt. I, p. 179.

It has been repealed in the Presidency of Bombay, to which it originally applied, by the Bombay Tolls Act, 1875 (Bom. Act 3 of 1875), s. 1 and has also been amended in—Assam by Assam Acts 3 of 1931 and 1 of 1932; C. P. by C. P. Act 8 of 1932; and Madras by Madras Acts 6 of 1938 and 14 of 1942.

² Subs. by the A. O. 1937 for "The Governor of the Presidency of Fort William in Bengal, the Lieutenant-Governor of the North-Western Provinces of Bengal and the Governor of the Presidency of Fort St. George in Council". The words "and the Governor of the Presidency of Bombay in Council" had been repealed by the Indian Tolls Act, 1888 (8 of 1888), s. 5.

The authority of the Provincial Government in any Province of India not specified in s. 1-A to which this Act and the Indian Tolls Act, 1864 (15 of 1864), may be or have been extended, is to be the same as if it had been originally specified in s. 2. See the Indian Tolls Act, 1888 (8 of 1888), s. 2 (1).

³ Subs. by the A. O. 1950 for "Provincial".

⁴ The words "not exceeding the rates mentioned in the schedule annexed to this Act" rep. by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

⁵ Subs. by paragraph 5 (2) of the A. O. 1937 for "as they respectively think fit".

⁶ Subs. by the A. O. 1937 for "at the expense of the Govt".

⁷ Subs. by the A. O. 1937 for "them".

3. In case of non-payment of any such toll on demand, the officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll; and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll, and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any closed holiday, he will sell the property by auction:

Their powers
for recovery
of toll.

Provided that, if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

Release of
seized prop-
erty on ten-
der of dues.

4. No tolls shall be paid for the passage ¹* * * * * of Police-officers on duty, or of any person or property in their custody, but no other exemption from payment of the toll levied under this Act shall be allowed.

Exemptions
from pay-
ment of toll.

5. All Police-officers shall be bound to assist the toll-collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common police-duties.

Assistance of
collectors by
Police-
officers.

6. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable on conviction before a Magistrate to imprisonment for any term not exceeding six calendar months, or to fine not exceeding two hundred rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court

Penalty for
offences
under Act.
Compensa-
tion to person
aggrieved.
Saving of his
right to sue.

7. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be

Exhibition
of table of
tolls, and
statement of
penalties.

¹ The words "of troops and military stores and equipages on their march or" rep. by s. 8 of the Indian Tolls (Army) Act, 1901 (2 of 1901).

² The words "of the Zillah" rep. by the Repealing Act, 1876 (12 of 1876).

annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any lawful toll.

Application
of the
Act.

8. The tolls levied under this Act shall be deemed public revenue

[*SCHEDULE.*] Rep. by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

²[THE SHERIFFS' FEES ACT, 1852.]

ACT NO. VIII OF 1852.

[6th February, 1852.]

An Act for remunerating the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under Act XXIII of 1840³.

Preamble.

For making better provision for the Sheriffs of Calcutta, Madras and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns, respectively; It is enacted as follows:—

1 to 7. Rep. by the A. O. 1937.

Liability of
Sheriff in
case of
escape of
person
taken in
execution.

8. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

¹ The words "but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges within the presidency in which they are levied" rep. by the A. O. 1937. The word "presidency" is to be deemed to have meant the territories under the administration of any L. G.—See the Indian Tolls Act, 1888 (8 of 1888), s. 2 (2), since repealed. See also, in this connection, paragraph 4(b) of the India and Burma (Transitory Provisions) Order, 1937.

² Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum

See Gazette of India, 1881, Pt. 1, p. 504.

³ See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3. See also the Code of Civil Procedure (Act 5 of 1908), s. 3.

¹[THE SHORE NUISANCES (BOMBAY AND KOLABA)
ACT, 1853.]

ACT NO. XI OF 1853.

[15th July, 1853.]

An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.

WHEREAS there is a large sea-shore in the islands of Bombay and Kolaba, and it is expedient, with a view to the safe navigation of the harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said harbour, or upon or about the shores of the said islands; It is enacted as follows:—

1. It shall be lawful for the Collector of Land-revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said harbour of Bombay, or upon or about the shores of the said islands; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the ²[Official Gazette], and shall state that, unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the Form No. 1, in the schedule to this Act annexed, or to the like effect.

2. If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay by petition, setting forth the grounds of his alleged right and praying that the said Collector may be restrained from causing such abatement or removal; and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions, and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

3. Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

¹ This Act, so far as it relates to the removal of any obstruction, impediment or public nuisance affecting, or likely to affect the navigation of the port of Bombay, rep. by Act 22 of 1855. Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921).

² Subs. by the A. O. 1937 for "Bombay Govt. Gazette".

Limitation of time for petition.	4. No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.
When Collector may cause removal of nuisance.	5. If no such petition shall be presented within the said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid by any person or persons to be authorized by warrant under his hand, and such warrant may be in the form No. 2 in the schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.
Form of Warrant.	
Indemnity	
Power to sell materials of encroachment.	6. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and, if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the ¹ [Central Government] shall direct.
Saving of rights of Government.	7. Nothing in this Act shall prejudice or affect the rights of ² ***** the ³ [Government] in any part of the said harbour, or of the sea-shore of the said islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.
"High-water mark" defined.	8. The words "high-water mark" in this Act shall mean the ordinary line of high-water at monsoon tides.

SCHEDULE.

FORM No. 1.

NOTICE is hereby given by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof; otherwise the same will be removed or abated by the said Collector under the authority of the said Act.

Dated the _____ day of _____ in the year _____
of our Lord

(Signature of Collector.)

¹ Subs. by the A. O. 1937 for "Governor of Bombay in Council".

² The words "the East India Company as trustees for", rep. by the Repealing Act, 1870 (14 of 1870).

³ Subs. by the A. O. 1950 for "Crown".

FORM No. 2.

THIS warrant, granted by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, is to authorize _____ of to remove (*describe encroachment*).

Dated _____

(Signature of Collector.)

¹[THE RECUSANT WITNESSES ACT, 1853.]

ACT No. XIX OF 1853.

[2nd December, 1853.]

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

1-18. [*Repeals; who may be witnesses; manner of summoning witnesses; contents of summons; summons how served; person summoned to produce a document.*] Rep. by Act X of 1881.

19. [*Witness not a party to suit not bound to produce his own title-deeds.*] Rep. by the Indian Evidence Act, 1872 (I of 1872).

20-25. [*Privileged communications; punishment for non-compliance with summons.*] Rep. by Act X of 1861.

26. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons,

and any person who, being in Court and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession,

shall * * * be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action.

¹ Short title given by the Amending Act, 1897 (5 of 1897), Sch. III.

S. 26 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in Assam (except the North Lushai Hills), see Gazette of India, 1879, Pt. I, p. 631 and Gazette of India, 1897, Pt. I, p. 299. The section has been repealed, except in Assam, by the Amending Act, 1903 (1 of 1903).

² The words "in addition to any proceedings under this Act" rep. by the Amending Act, 1891 (12 of 1891).

27-39. [*Property of person absconding liable for damages ; costs and fines ; appeal ; postponement of trial ; evidence to be taken down ; evidence of females ; power to require further evidence ; false evidence of parties punishable ; deposition by parties not to be used in their own favour ; no appeal against order for summons of witnesses.*] Rep. by Act X of 1861.

40. [*Documents referred to as a material proof to be filed with pleadings.*] Rep. by Act X of 1855.

41-44. [*Local extent ; commencement.*] Rep. by Act X of 1861.

¹[THE LEGAL PRACTITIONERS ACT, 1853.]

ACT No. XX OF 1853.

[8th December, 1853.]

An Act to amend the Law relating to Pleadors in the Courts of the East India Company.

WHEREAS it is expedient to amend the law relating to Pleadors in the Courts of the East India Company ; It is enacted as follows:—

1. [*Repeal of enactments.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

2. ²No pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of civil business, or to notify to the Court his inability to attend, unless he shall be employed in some cause or business which, according to the practice of the Court, may be heard or transacted therein on that day, anything in any law or regulation to the contrary notwithstanding.

Pleader not bound to attend Court except at hearing of cause in which he is employed.

Right of Supreme Court attorneys to plead in all Sadr Courts.

3. Every attorney on the roll of any or Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sadr Courts of the East India Company, subject however to all the rules for the time being in force in the said Sadr Courts respectively, applicable to barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in the Madras and Bombay Presidencies, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), ss. 4 and 5.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt. I, p. 870.

It has been rep. in places to which the Pleadors, Mukhtárs and Revenue Agents Act, 1865 (20 of 1865), is extended, by s. 3 of that Act; and in places to which the Legal Practitioners Act, 1879 (18 of 1879), applies, by the Legal Practitioners Act, 1884 (9 of 1884), s. 9. Act 20 of 1865 rep. by Act 18 of 1879.

² Section 2 rep. in Bombay by the Bombay Pleadors Act, 1920 (Bom. Act 17 of 1920).

1854 : Act V.] *Bengal Bonded Warehouse Association.*

4. That part of section 4, Act No. I of 1846, which provides that no person shall be admitted a pleader in any of the Courts of the East India Company, unless he has obtained a certificate in such manner as shall be directed by the Sadr Courts that he is of good character and duly qualified for the office, shall not extend to barristers or attorneys of any of the said Supreme Courts; but every such barrister and attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sadr Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein.

Barristers and attorneys of Supreme Courts not required to produce certificate of character, etc., but may plead in all subordinate Courts.

ACT NO. V OF 1854.

[10th February, 1854.]

An Act to amend Act No. V of 1838, relating to the Bengal Bonded Warehouse Association.

WHEREAS the Bengal Bonded Warehouse Association are desirous that the provisions of Act No. V of 1838 should be amended, and it appears reasonable that such amendment should be made, it is enacted as follows:—

1. Sections 12, 14, 32 and 37 of the said Act are hereby repealed.
2. The business of the said Association shall be managed by six Directors, three of whom shall form a quorum.
3. The two Directors who are to go out of office by rotation in every year shall go out of office in the month of May, before the holding of the Ordinary General Meeting of Proprietors directed to be holden in that month, and at such Ordinary General Meeting two Directors shall be chosen, and the Directors so going out of office, or either of them, shall be capable of being re-elected in the same year at such General Meeting.
4. No person shall be capable of being a Director of the said Association who shall not be a proprietor in his own right of five shares of the capital stock of the said Association.
5. Ordinary General Meetings of the said proprietors shall be held at least twice in every year, that is to say, on the second Wednesday in the month of May, and the second Wednesday in the month of November, and at every such Ordinary Meeting the Directors of the said Association shall present a report in writing of the state of the affairs of the said Association and a balance-sheet; and such General Meeting may declare a dividend out of the profits of the said Association, provided that no dividend shall be made which shall diminish the capital of the said Association.

Repeal of sections 12, 14, 32 and 37. Act V of 1838.

Management of business.

Annual election of Directors.

Qualification of Directors.

Ordinary General Meetings.

Bye-laws.

6. It shall be lawful for the said Association to make Bye-laws for the regulation of its own proceedings, which Bye-laws shall be binding only on its own Members and Officers, provided that no such Bye-law shall be valid till it shall have been approved of by one Extraordinary General Meeting of proprietors especially convened for that purpose, provided also that no such Bye-law shall be valid till it shall have been confirmed by the ¹[Central Government].

Dissolution
of Corpora-
tion.

7. At any time after the 14th day of March, 1860, it shall be lawful for the ²[Central Government] by an Order in Council to direct that the said Association shall be dissolved at the expiration of five years from the date of such order, and such order shall of itself have the effect of dissolving the said Corporation at the expiration of the said space of five years, except for the purposes mentioned in Section 39, Act No. V of 1838.

³ACT NO. XVI OF 1854.

[28th July, 1854.]

An Act to amend ⁴Regulation XI of 1831 of the Bengal Code.

WHEREAS the provisions of section 3 and section 7 of ⁴Regulation XI, 1831, have been found inconvenient; and whereas it is expedient that ⁴Regulation XI, 1831, as amended by this Act, should be extended to the whole of the Province of Benares; It is enacted as follows:—

1. [Repeal of ss. 3 and 7 of Bengal Regulation XI of 1831.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Darogas of
police subject
to tahsildars.

2. Wherever any tahsildar shall have police-jurisdiction under the provisions of section 2 of the said ⁴Regulation XI, 1831, every daroga of police hereafter appointed within the local limits of the police-jurisdiction of such tahsildar shall be subordinate to, and subject to the control of, such tahsildar, in his capacity of chief Police-thanadar.

Regulation
XI, 1831,
as amended
extended to
Benares.

3. ⁴Regulation XI, 1831, as amended by this Act, shall extend to the whole of the Province of Benares * * *

¹ Subs. by the A. O. 1937 for "Governor of the Presidency of Fort William in Bengal".

² Subs. by the A. O. 1937 for "Governor General of India in Council".

³ This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the former North-Western Provinces, except the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in Kumaon and Garhwal, the Tarai Parganas, the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—See Gazette of India, 1879, Pt. I, pp. 382 and 383.

⁴ A Regulation for vesting Tahsildars in certain cases with the powers of Police-officers.

⁵ The words "and all powers vested by the said Regulation in the G. G. in C. may be exercised by the Lieutenant-Governor of the North-Western Provinces" rep. by the A. O. 1937.

¹[THE MALABAR WAR-KNIVES ACT, 1854.]

ACT No. XXIV OF 1854.

[28th October, 1854.]

An Act to prohibit the possession of certain offensive weapons
in Malabar.

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the Presidency of Fort St. George; It is enacted as follows:—

1. The use of the ayudha katti or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar ^{2*} * * * ^{Use of war-knives prohibited.}

2. ^{3*} * * * Any person who shall be found in possession of any ayudha katti or war-knife or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any ayudha katti or war-knife or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated. ^{Fine for possessing, purchasing, etc., war-knives.}

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police-officers, acting under his warrant, in any house or other place in which any ayudha katti or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act; and any such ayudha katti or war-knife which shall be found may be seized and confiscated. ^{Power to search for war-knives.}

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his ^{4*} Assistants the powers conferred by this section.

Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police-officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods. ^{Penalty for resisting search.}

⁵[THE CONVEYANCE OF LAND ACT, 1854.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. [Repealed.]

2. Tenant in tail may dispose of or enlarge his estate by simple deed, etc.

¹ Short title given by the Amending Act, 1901 (11 of 1901).² Certain words providing for the surrender of weapons by a certain date rep. by the Repealing Act, 1870 (14 of 1870).³ The words "After such date" rep., *ibid.*⁴ The word "European" was rep. by the A. O. 1950.⁵ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

SECTIONS.

3. Married woman, with husband's concurrence, may dispose of her estate by deed acknowledged.
4. Sections 2 and 3 to apply to money subject to be invested in land.
5. Execution of deeds by married women.
6. If husband be lunatic, etc., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, etc.
7. Supreme Courts may appoint commissioners to take such acknowledgments.
8. Examination of married woman apart from her husband.
9. Judge, etc., to sign memorandum of acknowledgment.
10. Deed of married woman when to take effect.
11. Deed when presumed to have been duly acknowledged.
12. Saving of married woman's powers of alienation.
13. Contingent estates without trustees to preserve to be protected.
14. Estates may be conveyed, etc., by simple deed.
15. No conveyance to operate tortiously.
16. Words of limitation not necessary in a deed to give estate by inheritance.
- Estate limited to heirs shall not unite with prior life-estate.
17. *Bonâ fide* purchaser not required to see to application of trust money.
18. Act to apply only to cases governed by English law.
19. [Repealed.]

ACT NO. XXXI OF 1854.¹

[16th December, 1854.]

¹ The Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mámbhum, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum	
The Scheduled portion of the Mirzápur District	Ditto 1881, Pt. I, p. 504.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 383.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 382.
The Scheduled Districts in Ganjam and Vizagapatam	See Gazette of India, 1879, Pt. I, p. 771.
Assam (except the North Lusháí Hills)	Ditto 1898, Pt. I, p. 870.
It has been declared, by notification under s. 3 (b) of the last-mentioned Act, not to be in force in the Scheduled District of Lahaul.	Ditto 1897, Pt. I, p. 631.
India, 1886, Pt. I, p. 301.	See Gazette of

An Act ¹* * * * to simplify the modes of conveying land in cases to which the English Law is applicable.

WHEREAS it is expedient, in cases to which the English law applies Preamble.
 * * * * to simplify the modes of conveying land, and to exempt the purchasers of trust-property from the liability to see to the application of the purchase money ; It is enacted as follows :—

1. [*Real actions, fines and recoveries abolished.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

2. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee-simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein; and every tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple; who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned: Tenant in tail may dispose of or enlarge his estate by simple deed, etc.

Provided that every disposition under this section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made.

3. Every married woman who, either alone, or jointly with her husband is possessed of or entitled to any estate or interest in or any power to be exercised over, any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender or extinguish any such estate, interest or power, as fully and effectually as if she were an unmarried woman.² Married woman, with husband's concurrence, may dispose of her estate by deed acknowledged.

4. The provisions of the last two preceding sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments. Secs. 2 and 3 to apply to money subject to be invested in land.

5. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual unless her husband Execution of deeds by married women.

¹ The words "to abolish real actions and also fines and common recoveries and" rep. by the Repealing Act, 1874 (16 of 1874).

² Cf. the Fines and Recoveries Act, 1833 (3 & 4 Will. 4, c. 74), s. 77.

concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either especially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.¹

If husband be lunatic, etc., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, etc.

6. If the husband of any married woman, desirous of enlarging, passing or destroying any estate, interest or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.²

Supreme Courts may appoint commissioners to take such acknowledgments.

7. It shall be lawful for any of Her Majesty's said Courts to appoint by its order, under the seal of the Court, to be published in the ³[Official Gazette] or otherwise as the Court shall direct, permanent commissioners, either by name or office, and to appoint from time to time, under special commissions, special commissioners, any one of whom shall be authorized and empowered unless the act is directed to be done before more than one to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill-health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other officers described in the preceding section.

Examination of married woman apart from her husband.

8. Every such Judge, officer or commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he

¹ Cf. the Fines and Recoveries Act, 1883 (3 & 4 Will. 4, c. 74), s. 79.

² Cf. *ibid.* s. 91.

³ Subs. by the A. O. 1937 for "Government Gazette".

shall not permit her to acknowledge the same, and in such case such deed, so far as relates to the execution thereof by such married woman, shall be void.¹

9. Every Judge, officer or commissioner taking such acknowledgment under this Act shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot, or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed, marked (), was this day produced before me and acknowledged by therein named to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed, and her consent thereto and appeared to understand the same and declared the same to be freely and voluntarily executed by her."²

10. Every deed executed by a married woman and hereby required to be acknowledged shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

11. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice to prove the handwriting or authority of the Judge or other officer, or the commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party until the contrary is shown.

12. Nothing in this Act contained shall abridge, extend or affect the powers of alienation or disposition which any married women might have exercised over any property or rights, otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

13. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in ³[a Part A State] wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates the same shall be, to all intents and purposes, as effectually protected by the law as if such trustees had been duly appointed.

14. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed or released by a simple deed, whether such deed operates under the "Statute of Uses or not.

¹ Cf. the Fines and Recoveries Act, 1833 (3 & 4 Will. 4, c. 74), s. 80.

² Cf. *ibid.*, s. 84.

³ The original words "the territories under the Government of India" have successively been amended by A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁴ See the Real Property Act, 1845 (8 & 9 Vict., c. 106), ss. 2 and 4, respectively.

No conveyance to operate tortiously.

15. No conveyance of any kind shall operate to destroy, impair or affect any estate or interest which the conveying party has no right to destroy, impair or affect beyond the extent to which he may impair or affect the same.

Words of limitation not necessary in a deed to give estate by inheritance.

16. It shall not be necessary in any deed relating to immoveable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant or other conveyance of immoveable property to, or in favour of, any person shall be taken to give him the entire and absolute interest in the nature of an estate in fee-simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any property is given to a person for life or for other freehold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Estate limited to heirs shall not unite with prior life-estate.

Bona fide purchaser not required to see to application of trust money.

17. When any property is sold, the proceeds of which are subject to any trust, the *bonâ fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Act to apply only to cases governed by English law.

18. Nothing in this Act contained shall extend to any case to which the English law is not applicable.

19. [Interpretation-clause.] Rep. by the Repealing Act, 1874 (XVI of 1874).

²[THE MESNE PROFITS AND IMPROVEMENTS ACT, 1855.]

ACT No. XI OF 1855.

[27th March, 1855.]

An Act relating to *mesne profits* and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Preamble.

WHEREAS it is expedient, in cases to which the English law is applicable, to limit the liability for *mesne profits* and to secure to

¹ Section 17 rep. in places to which the Transfer of Property Act, 1882 (4 of 1882), extends or is extended, by Act 4 of 1882, s. 2 and the Schedule.

² Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri See Gazette of India, 1881, Pt. I, p. 74.

bonâ fide holders under defective titles the value of improvements made by them; It is enacted as follows:—

1. No person shall be chargeable with any rents or profits of any immovable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

No person chargeable with rent *bonâ fide* paid to holder under defective title.

2. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee-simple, or other absolute estate, and such person, his heirs or assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement:

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Amount how fixed.

3. Nothing in this Act contained shall extend to any case to which the English law is not applicable.

Act to apply only to cases governed by English Law.

The Districts of Hazáribágh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mámbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum . . .

See Gazette of India, 1881, Pt. I. p. 504.

The Scheduled portion of the Mirzápur District . . .

Ditto 1879, Pt. I, p. 383.

Jaunsar Báwar . . .

Ditto 1879, Pt. I, p. 382.

The Scheduled Districts of the C. P. . .

Ditto 1879, Pt. I, p. 771.

The Scheduled Districts in Ganjam and Vizagapatam . . .

Ditto 1898, Pt. I, p. 870.

Assam (except the North Lushái Hills) . . .

Ditto 1897, Pt. I, p. 299.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Scheduled Districts of Kumáon and Garhwál. See Gazette of India, 1876, Pt. I, p. 606.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

¹The words in italics in the title and in the preamble, together with s. 1, rep. in places to which the Transfer of Property Act, 1882, extends or is extended. See the Transfer of Property Act, 1882 (4 of 1882), s. 2 and the Schedule.

¹[THE LEGAL REPRESENTATIVES' SUITS ACT, 1855.]

ACT No. XII OF 1855.

[27th March, 1855.]

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.²

Preamble.

WHEREAS it is expedient to enable executors, administrators or representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such executors, administrators or representatives; It is enacted as follows:—

Executors may sue and be sued in certain cases for wrongs committed in lifetime of deceased.

1. An action may be maintained by the executors, administrators or representatives of any person deceased for any wrong committed in the time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death³ * * * ; and the damages, when recovered, shall be part of the personal estate of such person:

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has also been declared in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.; and in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mámbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto 1881, Pt. I. p. 504.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
Assam (except the North Lusháí Hills)	Ditto 1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto 1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál See Gazette of India, 1876, Pt. I, p. 606.

The Taráí of the Province of Agra Ditto 1876, Pt. I, p. 505.

It has been extended to the New Provinces and Merged States, see Act 59 of 1949.

² See the Civil Procedure Act, 1833 (3 & 4 Will. 4, c. 42), s. 2.

³ The words "and provided such action shall be brought within one year after the death of such person" rep. by the Indian Limitation Act, 1871 (9 of 1871), Sch. I. For limitation, see now the Indian Limitation Act, 1908 (9 of 1908).

and further, an action may be maintained against the executors or administrators or heirs or representatives of any person deceased for any wrong committed by him in his lifetime for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death ¹* * * ; and the damages to be recovered in such action shall, if recovered against an executor or administrator bound to administer according to the English law, be payable in like order of administration as the simple contract debts of such person.

2. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the executors, administrators or representatives of the party deceased; Provided that, in any case in which any such action shall be continued against the executors, administrators or representatives of a deceased party, such executors, administrators or representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

Death of
either party
not to abate
suit.
Proviso.

²[THE INDIAN FATAL ACCIDENTS ACT, 1855.]

ACT NO. XIII OF 1855.

[27th March, 1855.]

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect or default, may have caused the death of another person, and it is often-times right

Preamble.

¹ The words "and so as such action shall be commenced within two years after the committing of the wrong" rep. by s. 2 of the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Indian Limitation Act, 1908 (9 of 1908).

² Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

Based on the Fatal Accidents Act, 1846 (9 & 10 Vict., c. 93).

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3; in the Khandwa District by the Khandwa Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch. It has also been extended to the New Provinces and Merged States see Act 59 of 1949.

and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows:—

Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

* * * Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the beforementioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one suit to be brought.

2. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint * * * :

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri	See Gazette of India, 1881, Pt. I, p. 74.	
The Districts of Hazáribagh,		
Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The Scheduled Districts of the C. P.	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
Assam (except the North Lusháí Hills)	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606.	
The Taráí of the Province of Agra	Ditto	1876, Pt. I, p. 505.
The words "And it is enacted further that" rep. by the Repealing and Amending Act, 1914 (10 of 1914), Sch. II.		
The words "and that every such action shall be brought within twelve calendar months after the death of such deceased person" rep. by the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Indian Limitation Act, 1908 (9 of 1908).		

1855 : Act XXIII.] *Mortgaged Estates Administration.*

Provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

Claim for loss to estate may be added.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, etc.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter; that is to say * * * the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother² and grand-father and grand-mother; and the word "child" shall include son and daughter and grand-son and grand-daughter and step-son and step-daughter.

Interpretation-clause.

³[THE MORTGAGED ESTATES ADMINISTRATION

ACT, 1855.]

ACT No. XXIII OF 1855.

[13th August, 1855.]

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

¹ Certain words rep. by the Repealing and Amending Act, 1914 (10 of 1914), Sch. II.

² Step-father and Step-mother are designedly omitted.

³ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

Based on the Real Estate Charges Act, 1854 (17 & 18 Vict., c. 113). Rep., except as to descents or devices occurring or made before 1st January, 1866, by the Repealing Act, 1868 (8 of 1868).

This Act has been declared, as regards such descents and devices, to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri See Gazette of India 1881, Pt. I, p. 74.

The Districts of Hazáribagh,
Lohardaga (now the Ranchi
District, see Calcutta Gazette,
1899, Pt. I, p. 44), and Mánbhum,
and Pargana Dhálbhum and the
Kolhán in the District of Sing-
bhum

Ditto 1881, Pt. I, p. 504.

The Scheduled portion of the
Mirzápur District

Ditto 1879, Pt. I, p. 383.

Preamble.

WHEREAS it is expedient that the law, under which the real and personal assets of deceased persons subject to the English law are administered, should be amended; It is enacted as follows:—

Heir or devisee of land not to claim payment of mortgage out of personality.

1. 1* * * * * If any person shall die seised of, or entitled to, any estate or interest in any land or other hereditaments² [in a Part A State] which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person be primarily liable to the payment of all mortgage-debts, with which the same shall be charged, every part thereof, according to its value bearing a proportionate part of the mortgage-debts charged on the whole thereof:

Proviso as to right of mortgagee to satisfaction, from personal assets.

Provided always that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise:

Proviso as to claims made prior to this Act.

Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed or document already made, or to be made, before this Act shall have come into operation.

¹[THE USURY LAWS REPEAL ACT, 1855.]

ACT No. XXVIII OF 1855.

[19th September, 1855.]

An Act for the repeal of the Usury Laws.

Jaunsar Báwar See Gazette of India, 1879, Pt. I, p. 382.

The Scheduled Districts in Ganjam Ditto 1898, Pt. I, p. 870.

Assam (except the North Lusháí Hills) Ditto 1897, Pt. I, p. 299.

It has been declared, by notification under s. 3 (b) of the last-mentioned Act, not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

¹The words "After this Act shall have come into operation" rep. by the Repealing Act, 1874 (16 of 1874).

²The original words "within the territories in the possession of, and under the Govt. of the East India Company" have successively been amended by A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

³Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

WHEREAS it is expedient to repeal the laws now in force relating to usury ; It is enacted as follows: Preamble.

1. [Repeal of enactments.] Rep. by the Repealing Act, 1870 (XIV of 1870).

2. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and, if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable. Rate of interest to be decreed by Courts.

3. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit. Rate of interest upon a judgment or decree.

4. A mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties. Contracts for usufruct of property in lieu of interest.

5. Whenever, under the 'Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate Amount of interest to be deposited in certain cases of conditional sales under Bengal Regulations.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, the Western Dvārs, the Western Hills of Dārjiling, the Dārjiling Tārai and the Damson Sub-division of the Dārjiling District	See Gazette of India, 1881, Pt. I, p. 74.
The District of Hazāribāgh	Ditto 1881, Pt. I, p. 507.
The District of Lohārdāga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44)	Ditto 1881, Pt. I, p. 508.
The District of Mānbhum	Ditto 1881, Pt. I, p. 509.
Pargana Dhālbhum in the District of Singbhum	Ditto 1881, Pt. I, p. 510.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Bāwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto 1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
The Districts of Kāmrup, Naugong, Darrang, Sibsāgar, Lakhimpur, Goālpāra (excluding the Eastern Dvārs) and Cachar (excluding the North Cachar Hills)	Ditto 1878, Pt. I, p. 533.

It has been extended, under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumāon and Garhwāl	See Gazette of India, 1876, Pt. I, p. 606.
The Tarāi of the Province of Agra	Ditto 1876, Pt. I, p. 505.

¹ See Bengal Reg. 1 of 1798, s. 2. This Regulation is, however, now in force only in the Santhāl Parganas and with the exception of the parts which relate to interest, the Regulation is also in force in the Punjab.

Proviso. of twelve per centum per annum: Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Rate of interest on future adjustments of accounts.

6. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

7. [*Saving of prior transactions.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

8. [*Commencement of Act.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

[*Schedule of Repealed Enactments.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

THE BENGAL EMBANKMENT ACT, 1855.

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¹[ACT No. XXXII OF 1855.]

[30th November, 1855.]

An Act relating to Embankments.

Preamble.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof; and whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

1. [*Repeal of Bengal Regulations 6 of 1806 and 11 of 1829.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

“Embankment”
defined.

2. The word “embankment” in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of ²[the Government], at the expense either of ²[the Government] or of any private person, is a public embankment within the meaning hereof.

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal, except the Scheduled Districts.

It had, however, previously been rep. everywhere, except in Orissa and the Sundarbans, by the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873). It was also rep. in Assam by the Amending Act, 1897 (5 of 1897), and in the Bengal Presidency by the Bengal Embankment (Sundarbans) Act, 1915 (Ben. Act 4 of 1915). It has been amended in Orissa by Orissa Act 10 of 1947.

The application of the Act is barred in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3.

For further enactments relating to embankments, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866); the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873); and the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882).

² Subs. by the A. O. 1950 for “the Crown” which had been subs. by the A. O. 1937 for “Govt.”.

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of ¹[the State Government] to an officer who shall be called the Superintendent of Embankments.

4. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of ²[the Government].

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

5. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Clause 2.—The proclamation shall be published by affixing the same in the *cutcherry* of the Collector, the *mal cutcherry* (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Superintendent of Embankments.

Charge of embankment connecting public embankments, etc.

Removing private embankment endangering public one,

Changing line of embankment or making new one.

Enlarging embankment, etc.

Notice to Collector before taking charge, etc.

Issue of proclamation.

Publication of proclamation.

Procedure on appearance of parties.

¹ Subs. by the A. O. 1950 for "the Provincial Govt." which had been subs. by the A. O. 1937 for "Govt."

Appeal
from orders
of Superin-
tendent and
Commis-
sioner.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order.

Orders not
open to
revision by
Civil Court.

Clause 5.—Subject to the right of appeal abovementioned and to the orders and control of ¹[the State Government] every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Charging
cost of
maintaining
private em-
bankments
in charge of
officers of
the Govern-
ment.
Proviso.

6. Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of ²[the Government] the expense of keeping up such embankment shall be charged to such person :

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of ²[the Government].

Compensa-
tion for
damages.

7. *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endangered, and the Collector thereupon shall report the case for the orders of the superior Revenue-authoritiës.

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period abovementioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the Revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior³ Revenue-authorities.

¹ See footnote 1 on pre-page.

² Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Govt."

³ For a restriction upon the payment of compensation, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 1.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator.

Appoint-
ment of
arbitrators.

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants.

Arbitrator
how chosen
when there
are several
claimants
for compen-
sation.

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

Appoint-
ment of
third arbi-
trator.

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Clause 5.—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Appoint-
ment in
place of
arbitrator
not acting.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

Collector
empowered
to enforce
attendance
of arbitra-
tors.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default
of award
within
specified
period,
fresh arbi-
trators
may be
chosen.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of inquiry.

Collector to
furnish
information
to arbitra-
tors, and to

enforce
attendance
and exami-
nation of
witnesses,
etc.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Penalty on
witness not
appearing.

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially.

Penalty for
false deposi-
tion.

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Award of
arbitrators.

Clause 9.—On the close of the inquiry the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

When pay-
ment of
compensa-
tion may be
deferred.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or
alteration
of award.

Clause 11.—No award passed under this section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Dismissal
of suits
against the
Government.

Clause 12.—All suits and proceedings instituted against ¹[the Government] in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs.

¹ See footnote 2 on p. 104, *supra*.

But nothing herein contained shall affect the right of any party Proviso. to recover the amount awarded from any person who may have received the same without any just title thereto.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in *Clause 1* of this section, the Court of arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party. Estimated value of benefit to be set off against compensation awarded.

Clause 14.—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. Exception of cases of compensation in respect to huts, trees, or crops.

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

8. Clause 1.—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situated. Application by landholder to have a sluice made in public embankment.

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of ²[the Government] to judge of the advantage which may be derived from the work, and shall declare as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by ³[the State Government]; and, as regards any other public embankment whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. Officer in immediate charge to report on proposed work.

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

¹ As to apportionment of cost of sluice where lands of several owners are benefited, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 6.

² Subs. by the A. O. 1950, for "the Crown" which had been subs. by the A. O. 1937, for "Govt."

³ Subs. by the A. O. 1950, for "the Provincial Govt."

Upon applicant engaging to defray cost Collector may issue certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of *Clause 1* of this section, as the case may be, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

Opening of sluices.

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge may authorize temporary watercourse, etc., to be made.

10. Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments.

If the proposed work is to be executed by an officer of ¹[the Government] the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

Annual specifications and estimates for maintaining or improving embankments kept up at expense of zamindars.

11. *Clause 1.*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of *zamindars* or others shall be prepared as soon after the rains in each year as may be practicable.

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the

¹ See footnote 2, pre-page.

date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper :

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of ¹[the State Government], may disallow the construction of the work.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of zamindars or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and if the objection appear to be well founded, shall communicate the same with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass order accordingly; if he differ, the case shall be reported to the Commissioner whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process² which is or may be in force for the recovery of arrears of Government revenue.

12. Clause 1.—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated.

Superintendent to report to Collector as to removal of buildings, etc.

¹ See footnote 3 on p. 109, *supra*.

² See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 15.

Collector to
give notice
to claimants.

Clause 2.—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest *bazar*, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:

Selection of
jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings
of jury.

Clause 4.—The jury shall assess the value of each house, hut or building separately.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of
jury.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award,
Collector to
give notice
of payment,
and to
remove
buildings
etc., in
thirty days,

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

When
Collector
may remove
buildings,
etc., at cost
of owners.

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months, with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer in discharge of duty.

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or open any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty for wilful damage to embankment by cutting, etc.

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Penalty for other wilful damage.

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by ¹[any law for the time being in force].

Jurisdiction of Deputy or Assistant Magistrate.

19. [Provision of s. 13 of Bengal Regulation XX of 1817 extended to this Act.] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act shall be appealable, subject to the general provisions which regulate appeals.

Right of appeal.

21. In the construction of this Act,² * * * * the word "Collector" shall mean any Collector, Deputy Collector or other revenue-officer in independent charge of any district or portion of a district.

Interpretation.

¹ Subs. by the A. O. 1937 for "the Regulations of the Bengal Code, and by the Acts of the Governor-General of India in Council". The words "with respect to the punishment of misdemeanours" which originally concluded the section, rep. by the Repealing Act, 1874 (16 of 1874).

² The clauses relating to number and gender rep. by the Amending Act, 1903 (1 of 1903). See now the General Clauses Act, 1897 (10 of 1897), s. 13.

[THE SANTHAL PARGANAS ACT, 1855.]

ACT No. XXXVII OF 1855.

[22nd December, 1855.]

An Act to remove from the operation of the general Laws and Regulations certain districts inhabited by Santhals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.

Preamble. WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Dámin-i-Koh, and other districts which are inhabited principally by that tribe; It is enacted as follows:—

Districts
removed
from opera-
tion of
General
Regulations.

1. ²Clause 1.—The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor-General of India in Council, except so far as is hereinafter provided; and ³[no Central Act passed before the commencement of Part III of the Government of India Act, 1935,] shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein: ^{26 Geo 5}
c. 2.

Proviso.

Provided that nothing herein contained shall ⁴* * * remove any part of the said districts from the operation of ⁵Regulation 10 of 1804 of the Bengal Code; nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same, nor any law relating to the sale of lands for arrears of revenue, or relating to patni taluks or to the sale thereof for arrears of rent, nor any law relating to mutations or batwara or to any other matter to which the ⁶[State Government] shall at any time notify in the ⁷[Official Gazette] that the general Laws and Regulations shall extend.

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act extends only to the Sonthal Parganas, as described in the Schedule.

² Cl. 1 of s. 1 appears to have been superseded by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3.

³ Subs. by the A. O. 1937 for "no law which shall hereafter be passed by the Governor General of India in Council".

⁴ The words "extend to or affect any case now pending in any Court, nor," rep. by the Amending Act, 1891 (12 of 1891).

⁵ The Bengal State-Offences Regulation, 1804, was rep. by the Special Laws Repeal Act, 1922 (4 of 1922).

⁶ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Lieutenant-Governor of Bengal".

⁷ Subs. by the A. O. 1937 for "Calcutta Gazette".

Clause 2.—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers¹ to be appointed in that behalf by the ²[State Government] and such officer or officers shall be subject to the directions³ and control of the ²[State Government].

Superintendence of districts.

2. The administration of civil and criminal justice and the collection of the revenue, not being permanently-settled land-revenue within the said districts, are hereby vested in the officer or officers to be so appointed:

Administration of justice and collection of revenue.

⁴ Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed:

Suits exceeding value of one thousand rupees.

Provided also that all permanently-settled land-revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Collection of permanently-settled land-revenue.

3. In the administration of civil and criminal justice the officer or officers appointed under this Act * * * * * may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the ²[State Government]; and any person liable to be imprisoned in any civil or criminal jail may be imprisoned in any civil or criminal jail, as the case may be, which the ²[State Government] may order, whether the same be in or out of the said district.

Administration of civil and criminal justice.

4. [Decisions final; confirmation of death-sentence; appeal; procedure on references to Sadar Court.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (V of 1893).

5. [Saving of laws relating to European British subjects.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (V of 1893).

6. [Commencement of Act.] Rep. by the Repealing Act, 1870 (XIV of 1870).

¹ For provisions as to Courts of Officers appointed under this section, see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), Ch. III, Part II.

² Subs. by the A. O. 1950 for "Provincial Govt." which had been subs. by the A. O. 1937 for "said Lieutenant-Governor".

³ Any directions issued under cl. 2 of s. 1 must be consistent with enactments in force in the Sonthal Parganas, see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 27.

⁴ With reference to this proviso, see the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), and the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 15.

⁵ The words "shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the *fatwa* of a Law-officer; and he or they," rep. by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).

¹SCHEDULE.

The Dámin-i-Koh.

So much of Pargana Bhágálpur and of Pargana Satiyári as lies east of the Geruá Nadí and south of a line drawn eastward from Hamzá Chak to the village of Dighi.

ZILA BHAGALPUR.	{	Pargana Tiliyagárhí.	{	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.
		„ Jamuni.		
		„ Chituliya.		
		„ Kánkjaul.		
		„ Bahádarpur.		
		„ Akbarnagar.		
		„ Ináyatnagar.		
		„ Makráin.		
		„ Sultanganj.		
		„ Ambar.		
		„ Sultánábád.		
		„ Goddá.		
		„ Amolmotiya.		
		„ Pasai.		
„ Hándwá.				
ZILA BIRBHUM.	{	Tappa Manihári.	{	Except such detached villages as lie within the general boundaries of parganas not mentioned in this schedule.
		„ Belpattá.		
		Pargana Pabbiya.		
		Tappa Sarath Deogarh.		
		„ Kandit Karaiyá.		
	{	„ Muhammadábád.	{	
		Such part of Pargana Darin Mauleshwar as lies north of the Chilla or Chandan Ghát Nala.		

Such detached portions of other parganas and tappas as lie within the general boundaries of any of the abovementioned parganas and tappas.

Such portions of parganas belonging to Malda and Purnea below the village of Khidirpur in Pargana Tiliyagarhi, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

²[THE INDIAN BILLS OF LADING ACT, 1856.]

ACT No. IX OF 1856.

An Act to amend the Law relating to Bills of Lading.

[11th April, 1856.]

WHEREAS by the custom of merchants a bill of lading of goods Preamble.

¹ Subs. for original Sch. by the Sonthal Parganas Act, 1857 (10 of 1857).

² Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act is based on the Bills of Lading Act, 1855 (18 & 19 Vict., c. 111).

being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bonâ fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid; It is enacted as follows:—

1. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.

Rights under bills of lading to vest in consignee or endorsee.

2. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*,¹ or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Not to affect right of stoppage *in transitu* or claims for freight.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board:

Bill of lading in hands of consignee, etc., conclusive evidence of the shipment as against master, etc.

Provided that the master or other person so signing may exonerate himself, in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or some person under whom the holder claims.

Proviso.

It has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri See Gazette of India, 1881, Pt. I, p. 74.

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm, and Pargana Dhálbhūm and the Kolhán in the District of Singbhūm

Ditto 1881, Pt. I, p. 504

Assam (except the North Lusháí Hills)

Ditto 1897, Pt. I, p. 299.

¹ As to stoppage *in transitu*, see the Indian Contract Act, 1872 (9 of 1872), ss. 99-106.

¹[THE CIVIL COURTS AMINS ACT, 1856.]

ACT NO. XII OF 1856.

[9th May, 1856.]

An Act to amend the Law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.

Preamble.

WHEREAS the law by which the Civil Courts are authorized to employ Amins upon local investigations is defective, and requires amendment; * * * It is enacted as follows:—

1. [*Repeal of Regulations.*] Rep. by the Repealing Act, 1870 (XIV of 1870).

Appointment of Amins.

2. In each district, officers to be designated Civil Court Amins shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries.

³[The number of Amins to be employed in each district shall be determined by the ⁴[State Government.]

Amins by whom appointed and to what Courts attached.

3. The ⁵[District Judge shall from time to time attach the Civil Court Amins] to the several Courts of the district according as the state of business may require:

Provided that an Amin attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4. [*Declaration to be made by Civil Court Amins.*] Rep. by the Indian Oaths Act, 1873 (X of 1873).

¹ Short title given by the Amending Act, 1897 (5 of 1897).

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the former North-Western Provinces except the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—See Gazette of India, 1879, Pt. I, pp. 382-383.

² The words “and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in sections L, LI and LIII, Regulation 23, 1814, and” were rep. by the Amending Act, 1891 (12 of 1891).

³ Subs. by the A. O. 1937 for the original paragraph which read:—“The number of Amins to be employed in each district, and the salaries to be allowed to them, shall be determined by the L. G., with the sanction of the Governor General of India in Council.” Amins being servants of the Crown, their salaries are now determined by rules made under s. 241 (2) (b) of the G. of I. Act, 1935.

⁴ Subs. by the A. O. 1950 for “Provincial”.

⁵ Subs. by the A. O. 1937 for “Civil Court Amins” shall be appointed by the Judge of the district, * * * and the Judge shall from time to time attach them”. The words “with the sanction of the Court of the Sudder Dewanny Adalat” which originally occurred after the word “district” had been rep. by the Repealing Act, 1873 (12 of 1873). The appointment of the Amins is now made by such person as the governor may direct under s. 241 (1) (b) of the G. of I. Act, 1935.

5. ¹* * * * * The Civil Court Amines may be employed in Duties of Amins. any of the following duties:—

- (i) in investigating or adjusting accounts in any suit or other judicial proceeding:
- (ii) in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding:
- (iii) in delivering over possession of lands, houses and other immovable property, in execution of decrees or orders of Court:
- (iv) in the sale of movable property, and of houses, gardens and other immovable property of the kind described² in section 3, Regulation VII, 1825:
- (v) in ascertaining the sufficiency of sureties and the means of persons suing *in formâ pauperis*.

6, 7. [*Procedure in referring accounts to Civil Court Amins; procedure in cases of local enquiry.*] Rep. by Act X of 1861.

8. Whenever a Civil Court Amin may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Amin such fixed rate *per diem* as may be determined by the Sadr Court. Expense of Amins how charged.

The amount shall be paid into Court by the party at whose instance or for whose benefit the Amin is deputed, and shall be added to the costs of suit.

9. When a Civil Court Amin shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale. When employed to sell property, deduction from proceeds.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Amin according to the time he may be employed. Expenses, if no sale takes place.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the Amin is deputed, and shall be returned to the depositor if the sale takes place.

¹The words "Subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court" rep. by the Repealing Act, 1873 (12 of 1873).

²That is "orchards, or small portions of lakhiraj land". Ben. Reg. 7 of 1825 was repealed by the Repealing Act, 1874 (16 of 1874), but not so as to affect the provisions referred to here, see s. 1, para. 2, of that Act.

All sums paid for the employment of Amins, and all sums deducted from the proceeds of sales, shall be credited to ¹[the revenues of the ²[States].]

Power of
Civil Courts,
North-West-
ern Provinces,
to employ
Revenue
officers.

10. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue-officer in investigations and adjustments of accounts connected with land paying revenue to Government * * * * *

⁴[THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856.]

ACT No. XV OF 1856.

[25th July, 1856.]

An Act to remove all legal obstacles to the marriage of Hindu Widows.

Preamble.

WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the Government of the East India Company, Hindu widows with certain exceptions are held to be, by reason of their having been once married,

¹ Subs. by the A. O. 1937 for "Govt.".

² Subs. by the A. O. 1950 for "Provinces".

³ The words "under such general directions as may from time to time be prescribed by the Sudder Court" rep. by the Repealing Act, 1873 (12 of 1873), and the words "Wherever a Tuhseeldar, a Naib Tuhseeldar or a Peshkar shall be employed in any such investigation or adjustment under the orders of a Civil Court he shall possess all the powers vested in Civil Court Amins by section VII of this Act; and the provisions of the said section shall be applicable to the proceedings held by such officer" with which the section concluded rep. by the Amending Act, 1891 (12 of 1891).

⁴ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in—

all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (14 of 1874), s. 3;

the Santhál Parganas, by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3;

the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and

the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3.

It has also been extended to the New Provinces and Merged States, see Act 59 of 1949.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri See Gazette of India, 1881, Pt. I, p. 74.

The Districts of Hazáribágh,
Lohárdaga (now the Ranchi
District, see Calcutta Gazette,
1899, Pt. I, p. 44), and Mán-
bhūm, and Pargana Dhálbhūm
and the Kolhán in the District of
Singhbhum

Ditto 1881 Pt. I, p. 504.

incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property ;

and whereas many Hindus believe that this imputed legal incapacity although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience ;

and whereas it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare ; It is enacted as follows :—

1. No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

Marriage of
Hindu wid-
ows legalized.

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died ; and the next heirs of her

Rights of
widow in
deceased
husband's
property to
cease on her
re-marriage.

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 605.	
The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
The District of Lahaul	Ditto	1868, Pt. I, p. 301.
The Scheduled Districts of the C. P.	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
Coorg	Ditto	1878, Pt. I, p. 747.
The Districts of Kámrup, Naugong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dvárs) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt. I, p. 533.
The Gáro Hills, the Khási and Jaintiá Hills, the Nága Hills, the North Cachar Hills the Cachar District and the Eastern Dvárs in the Goalpára District	Ditto	1897, Pt. I, p. 299.
The Porahat Estate in the Singbhum District	Ditto	1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

The Tarái District of the Province of Agra	See Gazette of India, 1876, Pt. I, p. 505.	
The Andaman and Nicobar Islands	Ditto	1882, Pt. I, p. 148.

deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardianship
of children of
deceased hus-
band on the
re-marriage
of his widow.

3. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

Nothing in
this Act to
render any
childless
widow cap-
able of in-
heriting.

4. Nothing in this Act contained shall be construed to render any widow who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

Saving of
rights of
widow mar-
rying, except
as provided
in sections 2
to 4.

5. Except as in the three preceding sections is provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

Ceremonies
constituting
valid mar-
riage to have
same effect
on widow's
marriage.

6. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to
re-marriage
of minor
widow.

7. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or, failing all these, of her elder brother, or failing also brothers, of her next male relative.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Punishment for abetting marriage made contrary to this section.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Effect of such marriage. Proviso.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

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¹[THE BENGAL CHAUKIDARI ACT, 1856.]

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¹ Short title given by the Amending Act, 1903 (1 of 1903).

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¹Act No. XX OF 1856.

[14th November, 1856.]

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.

Preamble. WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukidars in cities, towns, stations, suburbs and bazars in the Presidency of Fort William in Bengal²; It is enacted as follows:—

Existing assessment to be levied until revised. 1. * * * * * The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

To what places Act shall apply. ⁴[2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bazars in the said Presidency³ to which the ⁵[State Government] may, at any time, extend the same by notification in the Official Gazette: Provided always that this Act shall not be extended to any agricultural village.⁶

Proviso. In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.]

Unions may be formed. 3. The ⁷[State Government] may by notification to be published in the Official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bazar, or any part or parts of a city, town, suburb, station or bazar, with any other city, town, suburb, station

¹ This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), ss. 6 and 7, to be in force in the former Province of Bengal and the former North-Western Provinces, except the Scheduled Districts. Subsequently it was rep. in Bengal and Assam by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), and in the U. P. by the U. P. Town Areas Act, 1914 (U. P. Act 2 of 1914). It is therefore now in force in Punjab and Ajmer. As regards Punjab, see however, the Punjab District Boards Act, 1883 (20 of 1883), s. 69, under which the Provincial Government has power to direct that the Bengal Chaukidari Act, 1856, shall cease to be in force in any local area over which a District Board has authority. In its application to Ajmer the Act has been amended by the Repealing and Amending Act, 1945 (6 of 1945).

² In the application of this Act to Oudh, the words "and the territories under the administration of the Chief Commissioner of Oudh" were deemed to have been inserted after the word "Bengal" in the preamble, and the words "or territories" after the word "Presidency" in s. 2—see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e) and Sch. II. But since Act 20 of 1856 is no longer in force in the U. P., these words have been omitted from the text.

³ The first portion of this section, repealing Ben. Reg. 22 of 1816, s. 6 of Ben. Reg. 7 of 1817, Ben. Reg. 3 of 1821, s. 4 of Ben. Reg. 2 of 1832 and Act 15 of 1837, was rep. by the Repealing Act, 1870 (14 of 1870).

⁴ Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871) for the original section.

⁵ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

⁶ The Act has been extended under this section to the town of Kalka.

⁷ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Govt."

or bazar, or part or parts of a city, town, suburb, station or bazar ; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bazar shall apply to such union.

4. For the purposes of this Act the "[State Government]" may define and declare the limits of any city, town, suburb, station, bazar or union, and all occupiers of houses within any such city, town, suburb, station, bazar or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazar or union.

Government may define limits of cities, towns, etc.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Houses let to lodgers, how to be assessed.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house ; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Penalty for removing, etc., name of street or number of house.

7. The Magistrate shall determine the number of chaukidars to be maintained in any city, town or other such place as aforesaid ; but the number of chaukidars so to be maintained shall not exceed one to every twenty-five houses.

Magistrate to determine number of chaukidars. proviso.

8. The chaukidars appointed under this Act may be of different grades and the wages to be paid to the several grades shall be determined by the Magistrate.

Grades and wages of chaukidars.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukidars appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Magistrate to determine the sum to be raised annually.

10. The tax to be levied in any city, town or other place as aforesaid for the purposes of this Act, may be either an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

Nature of tax to be levied.

¹ See footnote 5 on pre-page.

The ¹[State Government], on the report of the Magistrate and Commissioner ²* * *, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation
of tax

³[11. If the tax be an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidar of the lowest grade.

If the tax be a rate on houses and grounds, it shall not exceed five *per centum* of the annual value thereof.]

Rate, how
to be ascer-
tained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate
may exempt
occupiers
unable to pay
the assess-
ment or rate.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution
of pancha-
yats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchayat for each such city, town or other place as aforesaid, or when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every panchayat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof:

Magistrate
may appoint
a person not
residing in
the place to
be a member
of pancha-
yat.

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the panchayat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Duties of
panchayat.

15. The panchayat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchayat shall be appointed, and shall enter the

¹ See footnote 5 on page 126.

² The words "of Circuit" rep. by the Amending Act, 1891 (12 of 1891).

³ Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 2, for the original section.

same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied, and the amount payable monthly by such occupier.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

The requisition of the Magistrate to the panchayat to make out such list shall be in the form marked A or B, as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Form of
Magistrate's
requisition.

16. The panchayat shall, if required by the Magistrates so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Panchayat
may revise
existing
assessment
or rate.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchayat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Magistrate
may amend
and settle
assessment
or rate
as revised
by the pan-
chayat.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the Appendix to this Act, or to the like effect, and written in the language of the province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy together with a like notification, at the nearest police-thana; and shall also cause a third copy to be deposited in his own office.

Assessment
or rate to be
published.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Assessment
or rate to
stand good
for one year.
Change of
occupation
before a new
assessment or
rate.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate: Provided always that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Revised
assessment
or rate to be
deemed a
new one.

Proviso.

Appeal from
Assessment
or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court:

Limitation
of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner
may direct
revision of
assessment
or rate.

21. The Commissioner¹ * * *, with the consent of the ²[State Government], may, at any time, direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate
may direct
revision at
any time of
the year for
reasons to be
stated.

22. The Magistrate may require the pancháyat to revise the assessment or rate at any period during the year ; but on every such occasion he shall address a written order to the pancháyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Publication
of assess-
ment
or rate as
revised under
the two last
sections.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20.

Penalty for
refusal to
serve on
pancháyat.

24. If any person appointed a member of a pancháyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

¹ The words " of Circuit " rep. by the Amending Act, 1891 (12 of 1891).

² See footnote 5 on p. 126, *supra*.

25. If the persons appointed a pancháyat, or a majority of them, refuse, or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the pancháyat:

Provided that the functions of the pancháyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

26. No person shall be bound to act on a pancháyat unless he shall reside or carry on business within the limits of the district for which the pancháyat is to be appointed.

27. Every pancháyat shall be appointed for the period of one year, and no person shall be compelled to serve on a pancháyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a pancháyat at any time whatsoever with his own consent.

28. If a majority of the persons assessed or rated in any district for which a pancháyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the pancháyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the pancháyat.

29. If any vacancy shall occur among the members of a pancháyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

30. The pancháyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr pancháyat consisting of not less than five members, who may be selected either from the members of the local pancháyats or from any other residents of the city or town.

It shall be the duty of the sadr pancháyat to assist the Magistrate, when required so to do, in carrying out generally the object of this Act, and particularly in revising the assessment or rate made by the

district pancháyats and enquiring into and reporting on appeals preferred against the same.

Appointment
and registry
of chauki-
dars.

32. The chaukidars to be employed under this Act shall be appointed by the ¹[State Government], and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment
of jemadars
and inspec-
tors.

33. ²[The State Government] may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars:

Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars.

Appointment
of tax-collec-
tors and
other estab-
lishment

34. ²[The State Government] may appoint one or more tax-collectors or darogas, and such other servants as may be necessary for preparing or assisting the pancháyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act.

The Magistrate shall take from every tax-collector or daroga such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent
expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukidars, and for any other contingencies that may seem to him necessary.

Surplus funds
may be
devoted to
conservancy
purposes.

36. After paying the wages of the chaukidars, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may with the sanction of the Commissioner³ * * * appropriate any sum which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Preparation
of assess-
ment-lists.

37. The tax-darogas shall prepare, from the lists hereinbefore mentioned, a register which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Magistrate".

² The original words "Subject to the approval of the Commissioner of circuit, the Magistrate" have been successively amended by Act 12 of 1891, A. O. 1937 and A. O. 1950 to read as above.

³ The words "of Circuit" rep. by the Amending Act, 1891 (12 of 1891).

¹[38. On such dates as may be fixed by the pancháyats for payment of instalments of the tax, the tax-daroga shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax ; and for all sums so collected the daroga shall grant a receipt: Collection of assessments.

Provided that, with the sanction of the ²[Commissioner] previously obtained, the collection may be made quarterly instead of monthly ; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.]

39. The tax-daroga shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorised on that behalf, shall give the daroga a receipt for every sum of money so remitted. Remittance of collection.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukidari fund of the city, town or place in or on account of which they are collected.

40. The tax-daroga shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realisation of arrears. Preparation of summons etc.

41. ³[On the tenth day after the date fixed for the payment of instalments of the tax,] or as soon after as possible, the tax-daroga shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each. Report on defaulters to Magistrate

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Kachahri of the Magistrate, within a reasonable time, to be specified in the summons, to show cause for his refusal. Summons of defaulters.

43. If any defaulter fail to appear in answer to the summons, or, having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-daroga, authorising him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due ; and the Magistrate's orders as contained in the warrant shall be final. Assessment to be levied from defaulters by distress and sale.

¹ Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 3, for the original section.

² Subs. by the Amending Act, 1891 (12 of 1891), for "Commissioners of Circuit".

³ Subs. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 4, for "on the twentieth of each calendar month".

Sale how to be conducted.

44. The tax-daroga shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how to be applied.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible ; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale.
Costs.

The tax-daroga shall make a return of all such sales to the Magistrate in the form specified in Appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act.

Penalty for tax-daroga purchasing at such sales.

45. Any tax-daroga or other servant appointed under this Act, and any chaukidar or officer of police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees ; and the property shall be confiscated.

Sale of property beyond limits of town, etc.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever ; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

All goods found on premises liable to sale.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

But owner of goods to be indemnified by the defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same :

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-daroga in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-daroga or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the

provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

49. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any tax-daroga or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

Magistrates to try complaints against tax-daroga for extortion, etc.

On proof of any such offence, the tax-daroga or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or, in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Penalty for extortion, etc.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-daroga or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Proviso

50. The chaukidars and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of police-officers as prescribed ¹[by any law] for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for, by this Act.

Powers, duties and liabilities of chaukidars, jemadars and inspectors.

The chaukidars and the jemadars and inspectors are in all respects subordinate to the Police-daroga of the thana within the limits of which they may be employed.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Chaukidars to wear badges.

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

Duties of chaukidars—to apprehend offenders,

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

to prevent nuisances,

Third.—He shall give immediate intelligence to the police-daroga of the resort to his division of any receivers of stolen goods, or of

to give intelligence of

¹ Subs. by the A. O. 1937 for "in the General Regulations of the Bengal Code or Acts of the G. of I."

resort of
thieves, etc.,

any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

to examine
and detain
suspected
persons.

Fourth.—He may stop, examine and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest police-station.

All persons
required to
assist chauki-
dars in
making
arrests.

53. If a chaukidar or other police-officer be unable to effect an arrest, he may require all persons present to assist him ; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukidars,
etc., how to
be paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the police-daroga or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose ; and the daroga, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment
of chaukidars
for neglect of
duty etc.,

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension
or dismissal
of police
officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how to
be disposed
of.

57. All fines levied under this Act shall be credited to the chaukidari fund and held available for the purposes of this Act.

58. [*Jurisdiction of Magistrate.*] Rep. by the Code of Criminal Procedure (X of 1872).

Control over
proceedings
of Magistrate
and Commis-
sioner.

59. All the proceedings of a Magistrate under this Act except as otherwise specially provided, shall be subject to the control of the Commissioner ¹ * * * ; and all the proceedings of the Commissioner ¹ * * * shall be subject to the control of the ²[State Government].

60. [*Act not to apply to Calcutta.*] Rep. by the Amending Act, 1891 (XII of 1891).

¹ The words "of Circuit" rep. by the Amending Act, 1891 (12 of 1891).

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G.".

61. Wherever in this Act, or in any Appendix thereto there is nothing in the context requiring a different interpretation,— Interpreta-
tion of Act.

the word “Magistrate” shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate ;

the word “house” shall include any shop or warehouse ;

the word “bazar” shall mean any place of trade where there is a collection of shops or warehouses ;

the word “district” shall mean a city, town, bazar or union, or any division thereof ;

the expression “police-daroga” shall include any tahsildar or naib-tahsildar entrusted with police-jurisdiction.

¹APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the pancháyat.*]

I do hereby require you, the pancháyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of _____, a fair and equitable assessment upon the several occupiers of houses, shops and buildings, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees _____ required for the maintenance of chaukidars for the year commencing on _____ and other expenses authorised by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances, and the property to be protected, of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukidar of the lowest grade*) ²* * * .

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same ; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

¹ See s. 15, *supra*.

² The remainder of this paragraph was rep. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 5.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other descriptions of the person assessed, the annual assessment and the quota payable monthly ; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

¹APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the panchayat.*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of

a fair and equal rate upon the several occupiers of houses, shops and buildings and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorised by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same ; but the property

¹ See s. 15, *supra*.

occupied, together with the name and description of such occupier, shall be specified in the list together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly ; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

¹APPENDIX C.

An assessment (or rate, as the case may be) made for (here describe the city, town, village or other place or division for which the rate is made) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukidars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (or quarterly) assessment (or rate).

¹ See s. 18, *supra*.

Whereas the above assessment (*or rate, as the case may be*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of the several persons whose names are included in the said assessment (*or rate*) are hereby required to pay the monthly (*or quarterly*) contributions set opposite to their names with regularity to the tax-daroga or other person appointed by the Magistrate to receive the same ¹* * * * (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or, in default thereof any arrear that may be due will be realised by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or rated*) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

²APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realised on each article.	Purchaser's name.	Balance.

¹ Certain words rep. by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 5.

² See s. 44, *Supra*.

¹APPENDIX E.*Table of Fees payable in distrains under this Act.*

Sum distrained for										Fee.
										Rs. A.
Under 1 rupee	.	.	.	.	.	.	.	.	.	0 4
1 and under 3 rupees	.	.	.	.	.	.	.	.	.	0 8
3 " 5 "	.	.	.	.	.	.	.	.	.	1 0
5 " 10 "	.	.	.	.	.	.	.	.	.	1 8
10 " 15 "	.	.	.	.	.	.	.	.	.	2 0
15 " 20 "	.	.	.	.	.	.	.	.	.	2 8
20 " 25 "	.	.	.	.	.	.	.	.	.	3 0
25 " 30 "	.	.	.	.	.	.	.	.	.	3 8
30 " 35 "	.	.	.	.	.	.	.	.	.	4 0
35 " 40 "	.	.	.	.	.	.	.	.	.	4 8
40 " 45 "	.	.	.	.	.	.	.	.	.	5 0
45 " 50 "	.	.	.	.	.	.	.	.	.	5 8
50 " 60 "	.	.	.	.	.	.	.	.	.	6 0
60 " 80 "	.	.	.	.	.	.	.	.	.	7 8
80 " 100 "	.	.	.	.	.	.	.	.	.	9 0
Above 100	.	.	.	.	.	.	.	.	.	10 0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

¹ See s. 44, *supra*.

[THE CALCUTTA UNIVERSITY ACT, 1857.]

ACT NO. II OF 1857.

[24th January, 1857.]

An Act to establish and incorporate an University at Calcutta.

Preamble.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees² as evidence of their respective attainments, and marks of honour proportioned thereunto ; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated ; It is enacted as follows" * * * * :—

1. The following persons, namely,—

Incorporation.

- The Right Honourable CHARLES JOHN VISCOUNT CANNING,
Governor General of India,
- The Honourable JOHN RUSSELL COLVIN,
Lieutenant-Governor of the North-Western Provinces,
- The Honourable FREDERICK JAMES HALLIDAY,
Lieutenant-Governor of Bengal,
- The Honourable Sir JAMES WILLIAM COLVILLE, Knight,
Chief Justice of the Supreme Court of Judicature in Bengal,
- The Right Reverend DANIEL WILSON,
Doctor of Divinity, Bishop of Calcutta,
- The Honourable GEORGE ANSON, General,
Commander-in-Chief of the Forces in India,
- The Honourable JOSEPH ALEXANDER DORIN,
Member of the Supreme Council of India,
- The Honourable JOHN LOW, Major-General,
Companion of the Most Honourable Order of the Bath, Member of the
Supreme Council of India,
- The Honourable JOHN PETER GRANT,
Member of the Supreme Council of India,
- The Honourable BARNES PEACOCK,
Member of the Supreme Council of India,

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).² For powers conferring Degrees, see the Indian Universities Act, 1904 (8 of 1904).³ The words and brackets " (that is to say) " rep. by the Repealing Act, 1876 (12 of 1876).

CHARLES ALLEN Esquire,
Member of the Legislative Council of India,
HENRY RICKETTS, Esquire,
Provisional Member of the Supreme Council of India,
CHARLES BINNY TREVOR, Esquire,
Judge of the Sudder Court in Bengal,
Prince GHULAM MUHAMMAD,
WILLIAM RITCHIE, Esquire,
Advocate-General in Bengal,
CECIL BEADON, Esquire,
Secretary to the Government of India,
Colonel HENRY GOODWYN, of the Bengal Engineers,
Chief Engineer in Bengal,
WILLIAM GORDON YOUNG, Esquire,
Director of Public Instruction in Bengal,
Lieutenant-Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers,
Secretary to the Government of India,
Lieutenant-Colonel ANDREW SCOTT WAUGH, of the Bengal Engineers,
Surveyor-General of India,
KENNETH MACKINNON, Esquire,
Doctor in Medicine,
HODGSON PRATT, Esquire,
Inspector of Schools in Bengal,
HENRY WALKER, Esquire,
Professor of Anatomy and Physiology in the Medical College of Bengal,
THOMAS THOMSON, Esquire,
Doctor in Medicine, Superintendent of the Botanical Garden at
Calcutta,
FREDERICK JOHN MOUAT, Esquire,
Doctor in Medicine, and Fellow of the Royal College of Surgeons,
Lieutenant WILLIAM NASSAU LEES, of the Bengal Infantry,
The Reverend WILLIAM KAY,
Doctor of Divinity, Principal of Bishop's College,
The Reverend ALEXANDER DUFF,
Doctor of Divinity,
THOMAS OLDHAM, Esquire,
Superintendent of the Geological Survey of India,
HENRY WOODROW, Esquire,
Inspector of Schools in Bengal,
LEONIDAS CLINT, Esquire,
Principal of the Presidency College,

PROSONNO COOMAR TAGORE,
 Clerk Assistant of the Legislative Council of India,
 RAMAPERSHAD ROY, Government Pleader in the Sudder Court of Bengal,
 The Reverend JAMES OGILVIE, Master of Arts,
 The Reverend JOSEPH MULLENS, Bachelor of Arts,
 MOLAVY MUHAMMAD WUJEEH, Principal of the Calcutta Mudrasah,
 ISHWAR CHUNDER BIDYA SAGAR,
 Principal of the Sanskrit-College of Calcutta,
 RAMGOPAL GHOSE,
 Formerly Member of the Council of Education,
 ALEXANDER GRANT, Esquire,
 Apothecary to the East India Company.
 HENRY STEWART REID, Esquire,
 Director of Public Instruction in the North-Western Provinces,

being the first Chancellor, Vice-Chancellor and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta,

and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within ¹[Part A States and Part C States].

2. The ^{2*} Body Corporate shall be able and capable in law to take, purchase and hold any property, moveable or immoveable, which may become vested in it for the purposes of the ^{2*} University by virtue of any purchase, grant, testamentary disposition or otherwise; and shall be able and capable in law to grant, demise, alien or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the ^{2*} University; and also to do all other matters incidental or appertaining to a Body Corporate.

3. ^{2*} * * * * * If any person, being Chancellor, Vice-Chancellor or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Power to hold and dispose of property.

Office of Chancellor, et c., vacated by leaving India.

¹ The original words "the territories under the Government of India" have been successively amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

² The word "said" wherever it occurred in s. 2 and the words "The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex-officio* and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the Calcutta Gazette, hereafter appoint; and the Chancellor, Vice-Chancellor and Fellows for the time being shall constitute the Senate of the said University: Provided that" in s. 3 were rep. by s. 29 of the Indian Universities Act, 1904 (8 of 1904).

4. ¹[The Governor of West Bengal for the time being shall be the Chancellor of the said University.] Chancellor.

5. ²* * * * * The office of Vice-Chancellor shall be held Vice-Chancellor for two years only ; ³* * * * *

Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time or otherwise, the ⁴[State Government of West Bengal] shall, by notification ⁵* * * *, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy :

Provided that, on any vacancy in the said office which shall occur by effluxion of time, the ⁴[State Government of West Bengal] shall have power to re-appoint ⁶* * * * * any future Vice-Chancellor to such office.

6. [Fellows.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

7. The ⁴[State Government of West Bengal] may cancel the appointment of any person already appointed, or hereafter to be appointed, a Fellow of the University, and, as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow. The appointment of a Fellow may be cancelled

8. The Chancellor, Vice-Chancellor and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns and property of the said University ; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. Chancellor, Vice-Chancellor and Fellows to superintend the affairs of the University.

7* * * * *

9. [Meetings of the Senate.] Rep. by the Indian Universities Act 1904 (VIII of 1904), s. 29.

10. [Appointment and removal of Examiners and Officers.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

11. [Power to confer degrees.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

¹ Subs., with effect from 1st April 1940, by the A. O. 1937, for the former section. The words "West Bengal" were subs. by the A. O. 1948 for "Bengal".

² The words "The first Vice-Chancellor of the said University shall be Sir James William Colville, Knight" rep. by the Repealing Act, 1876 (12 of 1876).

³ The words "and the Vice-Chancellor hereinbefore nominated shall go out of office on the first day of January, 1859" rep., *ibid.*

⁴ The original words "Local Government of Bengal" have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁵ The words "in the Calcutta Gazette" were rep. by the Indian Universities Act, 1904 (8 of 1904), s. 29.

⁶ The words "The Vice-Chancellor hereinbefore nominated or" rep. by the Repealing Act, 1876 (12 of 1876).

⁷ The last two paragraphs and the proviso to s. 8 relating to bye-laws rep. by the Indian Universities Act, 1904 (8 of 1904), s. 29.

12. [Qualification for admission of candidates for degrees.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

13. [Examination for degrees.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

14. [Grant of degrees.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

Fees.

15. The said Chancellor, Vice-Chancellor and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the ¹[State Government of West Bengal] shall from time to time see fit to impose.

Annual
accounts.

Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the ¹[State Government of West Bengal] to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said ¹[State Government of West Bengal] may direct.

2[THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.]

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1. [Repealed.]
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3. Municipal duty when payable.
- 3A. Power of the Commissioner of Excise to appoint public warehouses and to license warehouses.
4. Duty not paid on importation to be paid on removal from warehouse for consumption.
Remission of duty on re-exportation.
- 4A. Drawback allowable on re-export.
5. Bombay, a warehousing port for tobacco.
6. Powers for collecting and enforcing payment of duty.
7. Tobacco not to be imported otherwise than by sea.
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¹ See footnote 4 on pre-page.

² Short title given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921).

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8. Exemption from duty.
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14. Monthly returns of stock to be made by retail-dealers.
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Revocation of license.
20. Levy of fines, and adjudication and sale of confiscations.
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- 20B. The Commissioner of Excise and other officers appointed by Government to exercise powers and perform duties of the Commissioner of Customs, Salt and Opium and Customs officers.
21. Interpretation-clause.
22. Meaning of "Government".

SCHEDULE A.—Form of Permit.

ACT NO. IV OF 1857.

[9th February 1857.]

An Act to amend the law relating to the duties payable on tobacco and the retail sale and warehousing thereof in the town of Bombay.

WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail sale and warehousing of that article in the town of Bombay; It is hereby enacted as follows:—

Preamble.

1. [Repeal of enactments.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Municipal
duty on
tobacco for
consumption
in Bombay.

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of ¹[thirty rupees] per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty ²* * * *.

Municipal
duty when
payable.

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco or after it has been warehoused as hereinafter provided.

Power of the
Commis-
sioner of
Excise to
appoint
public ware-
houses and
to license
warehouses.

³[3A. The Commissioner of Excise may appoint public warehouse and, on payment of such fees and subject to such terms and conditions as may be prescribed by him by general or special order, may license warehouses, wherein tobacco may be warehoused without payment of the municipal duty on the importation thereof and may cancel any such appointment or licence.]

Duty not
paid on
importation
to be paid on
removal from
warehouse for
consumption.

4. If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse ⁴* * * *; and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town.

Remission
of duty on
re-exporta-
tion.

When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted.

Drawback
allowable on
re-export.

⁵[4A. When tobacco removed from a public or licensed warehouse for consumption in the said town on payment of the municipal duty under section 4, is re-exported to any place beyond the limits of the said town, seven-eighths of such duty paid shall be re-paid as drawback in the manner and subject to such conditions as may be prescribed by rules made by the Commissioner of Excise in this behalf.]

Bombay, a
warehousing
port for
tobacco.

5. The port of Bombay shall ⁶* * * * be held to be a warehousing port ⁷* * * * so far as regards the warehousing of tobacco ⁸* * * *.

¹ Subs. by the Tobacco Duty (Town of Bombay) Amendment Act, 1932 (Bom. Act I of 1932), s. 3, for "seven rupees and eight annas".

² The words "and such duty shall be leviable in addition to any customs duty prescribed by law" rep. by the Amending Act, 1891 (12 of 1891).

³ Ins. by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom. Act 14 of 1933), s. 2.

⁴ The words and figures "within the meaning of Act XXV of 1836" rep. by the Repealing Act, 1874 (16 of 1874).

⁵ Ins. by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom. Act 14 of 1933), s. 3.

⁶ The words "after the passing of this Act," rep. by the Repealing Act, 1876 (12 of 1876).

⁷ The words and figures "within the meaning of Act XXV of 1836" rep. by the Repealing Act, 1870 (14 of 1870).

⁸ The words "and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of tobacco in the said town. The import-duty in the said Act mentioned shall, as to tobacco, include the municipal duty leviable under this Act" rep. by Acts 12 of 1876 and 12 of 1891.

6. The Commissioner of Customs, Salt and Opium, and officers of customs shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

Powers for collecting and enforcing payment of duty.

7. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government ¹* *.

Tobacco not to be imported otherwise than by sea. Landing-places to be prescribed.

8. The foregoing provisions of this Act, shall not be applicable to such small quantities of tobacco (not exceeding in weight ²[half a seer] of eighty tolas to the seer) as are intended for the private consumption of the importer.

Exemption from duty.

9. It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same on any thoroughfare in the said town, nor to carry the same in any vessel or boat of less than forty khandís burthen in any of the creeks or waters adjacent to the said town, without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of Schedule A to this Act annexed, or to the like effect :

Permit necessary for removal of tobacco.

any such permit shall be in force only between sunrise and sunset of the day for which it is granted :

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco, not exceeding in weight ²[half a seer] of eighty tolas to the seer, for personal or domestic use.

Proviso.

10. No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package :

No permit for removal from warehouse of less than a bale.

Provided that, when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

Proviso.

¹ The words "of Bombay" rep. by the A. O. 1937.

² Subs. by the Tobacco Duty (Town of Bombay) Amendment Act, 1932 (Bom. Act 1 of 1932), s. 4. for "four seers".

License for
retail sale of
tobacco.

11. It shall not be lawful for any person to sell or offer for sale by retail any tobacco in the said town without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by ¹[the State Government] in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act.

A fee of one rupee shall be paid for every such license.

What to be
deemed
retail sale.

12. Any sale of tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act.

Retail sale
to be only at
place men-
tioned in
license.
Name and
number to be
affixed
to shop.

13. It shall not be lawful for any licensed retail dealer in tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license ; and the name of every retail dealer in tobacco, together with the number of his license, shall be written or painted in English, Gujrati and Marathi, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

Monthly re-
turns of
stock to be
made by re-
tail dealers.

14. Every retail dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid a separate return for each shop or place of sale for which he holds a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month ;

and any retail dealer who refuses or neglects to make such return or makes a false return shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Retail dealer
to enter in
book weight,
etc., of to-
bacco re-
ceived.

15. Every retail dealer in tobacco shall, on the same day on which he shall receive any tobacco, into any such shop or place of sale, enter in a book to be kept for that purpose the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it ;

Inspection of
book.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same ;

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit ;

and any retail dealer who neglects or refuses to comply with the provisions of this section shall for every offence be liable to be

¹ Subs. by the A. O. 1950 for "the Provincial Government" which had been subs. by the A. O. 1937 for "Govt."

deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

16. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him

Search-warrant.

to enter and search between sunrise and sunset any building or place to be specified in the warrant in which tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and

to seize and to take away from thence any tobacco or other articles subject to confiscation under this Act.

17. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorised by the Commissioner or such officer may arrest and detain any person carrying or having charge of any tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

Power to arrest and detain ; to search vehicles, etc.

18. All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person in the said town selling or offering any portion thereof for sale contrary to the provisions of this Act, and every vessel in which such tobacco is contained, and every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same, shall be liable to confiscation :

Confiscation of tobacco illegally imported, removed, etc.

Provided always that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation ; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

Mitigation of penalty.

Enforcement of fine.

19. Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco ; and, if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid.

Penalty for illegal importation, removal, sale or possession.

Revocation of license.

20. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay.

Levy of fines and adjudication and sale of confiscations.

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

Publication
of rules.

¹[20A. Rules made under this Act shall be subject to previous publication.]

The Commis-
sioner of
Excise and
other officers
appointed by
Government
to exercise
powers and
perform
duties of the
Commissioner
of Customs,
Salt and
Opium and
Customs
officers.

20B. The powers and authorities conferred on the Commissioner of Customs, Salt and Opium and the officers of customs under the provisions of this Act are hereby conferred on and shall be exercised respectively by the Commissioner of Excise and such officers as Government may from time to time by general or special order appoint in this behalf ; and

the duties imposed on the Commissioner of Customs, Salt and Opium and the officers of customs under the provisions of this Act are hereby imposed on and shall be performed respectively by the Commissioner of Excise and the officers appointed by Government ;

and references in this Act to the Commissioner of Customs, Salt and Opium and the officers of customs shall be deemed references to the Commissioner of Excise and the officers appointed by Government respectively.]

Interpreta-
tion clause.

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction :—

the words “town of Bombay” shall include all places within the Islands of Bombay and Kolaba ;

words importing the singular number shall include the plural number and words importing the plural number shall include the singular number ;

words importing the masculine gender shall include females.

²[The words “the Commissioner of Excise” shall mean the officer appointed by Government for the time being to be the Commissioner of Excise.]

Meaning of
Government.

³[**22.** In this Act, “Government” means, so long as the municipal duty is, by virtue of ⁴[article 277 of the Constitution] levied and collected by the ⁵[State] Government, that Government, and thereafter the Central Government.]

SCHEDULE A.

⁶FORM OF PERMIT.

No.

A. B. has been permitted to remove from (*Custom-house, or licensed warehouse, or shop No.* *situated in Kalbadevi*

¹ Ins. by the Tobacco Duty (Town of Bombay) Amendment Act, 1933 (Bom. Act 14 of 1933), s. 4.

² Ins. by s. 5, *ibid.*

³ Ins. by the A. O. 1937.

⁴ Subs. by the A. O. 1950 for “section 143(2) of the Government of India Act, 1935”.

⁵ Subs. by the A. O. 1950 for “Provincial”.

⁶ See s. 9, *supra*.

Street, to warehouse or shop No. *in Bazar Street*), the under-
mentioned quantity of tobacco between sunrise and sunset on the
day of in the year .

(Signed)

Commissioner of Customs, Salt and Opium.

THE ORIENTAL GAS COMPANY ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Powers to break up streets, etc., under Superintendence, and to open drains.
2. Not to enter on private land without consent.
3. Notice to be served on persons having control, etc., before breaking up streets or opening drains.
4. Streets or drains not to be broken up, except under Superintendence of persons having control of the same.
If persons having the control, etc., fail to superintend, Company may proceed with the work.
5. Streets broken up to be reinstated without delay.
6. Penalty for delay in reinstating streets.
7. In case of delay, other parties may reinstate, and recover the expenses.
Expense, how to be ascertained and recovered.
8. Power to enter buildings for ascertaining quantity of gas consumed.
9. Recovery of rents due for gas.
10. Power to take away pipes when supply of gas discontinued.
11. Meters not liable to distraint for rent, etc.
12. Penalty for fraudulently using gas.
13. Penalty for wilfully damaging pipes.
14. Satisfaction for accidentally damaging pipes.
15. Penalty for causing water to be corrupted.
Daily penalty during the continuance of the offence.
16. Daily penalty during escape of Gas after notice.

17. Penalty if water be fouled by Gas.
18. Power to examine Gas-pipes to ascertain cause of water being fouled.
19. Expenses to abide result of examination.
20. How expenses to be ascertained.
21. Liability to indictments for nuisance.
22. Copies of the original Deed of Association and of all Rules, etc., to be kept for inspection at the office of the Company in Calcutta and in the office of the Registrar of Joint Stock Companies or the Keeper of the Records of the Supreme Court at Fort William.
23. Service of process.
24. Recovery of penalties, etc.
25. Levy by distress.
26. No distress unlawful for want of form, etc.
27. Interpretation.

ACT NO. V OF 1857.

[13th February 1857.]

An Act to confer certain powers on the Oriental Gas Company, Limited.

Preamble.

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing Gas-works into India, which Company having been completely registered in England under the Act of Parliament of the eighth year of the reign of Her present Majesty, Cap, 110, has since been registered in England under "The Joint Stock Companies' Act, 1856", with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited; and whereas the said Company has erected Gas-works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town; and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places; It is enacted as follows:—

Power to
break up
streets, etc.,
under

1. In the Town of Calcutta and its environs, and in any other town or place to which the provisions of this Act may hereafter be extended by a law to be passed for that purpose, the Oriental Gas Company, Limited, under such superintendence as is hereinafter

specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service-pipes, and other works, and from time to time repair, alter or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the Gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges; and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the said Company, shall from time to time deem necessary for supplying Gas to the inhabitants of the said Town of Calcutta and its environs, or other town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Superintendence, and to open drains.

2. Provided always, that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the said Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Not to enter on private land without consent.

3. Before the said Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Municipal Commissioners for the Town of Calcutta, or other persons under whose control or management the same may be, or to their Clerk, Surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be served on persons having control, etc., before breaking up streets or opening drains.

4. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control, etc., fail to superintend, Company may proceed with the work.

sewer or drain : Provided always that, if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be reinstated without delay.

5. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby ; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up ; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets.

6. If the said Company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice ; or if the said Company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby ; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty Rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty Rupees for each day during which any such delay, as aforesaid, shall continue after they shall have received notice thereof.

7. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed; and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered in Calcutta and in any other town or place subject to the jurisdiction of any of Her Majesty's Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV of 1856, and in any town or place not within the jurisdiction of any of Her Majesty's Courts, in the same manner as damages are recoverable under this Act.

In case of delay, other parties may reinstate, and recover the expenses.

Expense. how to be ascertained and recovered.

8. The Clerk, Engineer, or other officer, duly appointed for the purpose by the said Company, may at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty Rupees.

Power to enter buildings for ascertaining quantity of gas consumed.

9. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

Recovery of rents due for gas.

10. In all cases in which the said Company are authorized to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings or other works, the property of the said Company.

Power to take away pipes when supply of gas discontinued.

11. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in insolvency against the person in whose possession the same may be.

Meters not liable to distress for rent, etc.,

Penalty for fraudulently using gas.

12. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty Rupees for every such offence, and also the sum of twenty Rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished ; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully damaging pipes.

13. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug lamp, or other work of the said Company, for supplying Gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the Gas supplied by the said Company, shall, for each such offence, forfeit to the said Company any sum not exceeding fifty rupees, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

14. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Company, or under their control, shall pay such sum of money by way of satisfaction to the said Company for the damage done, not exceeding fifty rupees, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

15. If the said Company shall at any time cause or suffer to be brought, or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water, shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees ; and they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby ; and such penalties shall be paid to such last-mentioned person.

Daily penalty during the continuance of the offence.

Daily penalty during escape of

16. Whenever any Gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from

escaping ; and in case the said Company shall not within twenty-four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty rupees for each day during which the Gas shall be suffered to escape, after the expiration of twenty-four hours from the service of such notice.

Gas after notice.

17. Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled, for every such offence a sum not exceeding two hundred rupees, and a further sum, not exceeding one hundred rupees for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence.

Penalty if water be fouled by Gas.

18. For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipes, conduits, and works of the said Company ; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company, for the purpose of laying their pipes.

Power to examine Gas-pipes to ascertain cause of water being fouled.

19. If upon any such examination, it appear that such water has been fouled by any Gas belonging to the said Company, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said Company; but if upon such examination it appear that the water has not been fouled by the Gas of the said Company, the person causing such examination to be made, shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

Expenses to abide result of examination.

20. The amount of the expenses of every such examination and repair, and of any injury done to the said Company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in Section VII of this Act.

How expenses to be ascertained.

21. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying Gas.

Liability to indictments for nuisance.

Copies of the original Deed of Association and of all Rules, etc., to be kept for inspection at the office of the Company in Calcutta and in the office of the Registrar of Joint Stock Companies or the Keeper of the Records of the Supreme Court at Fort William.

22. A copy of the original Deed of Association of the said Company, and of every other instrument registered under the said "Joint Stock Companies' Act, 1856", as constituting the Regulations of the said Company, and a copy of every special resolution of a General Meeting whereby any change shall have been or at any time shall be made in the Regulations of the said Company, shall be kept at the office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said office ; and a copy of such original Deed of Association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Joint Stock Companies, or, if there be no such officer, in the office of the Keeper of the Records of the Supreme Court of Judicature at Fort William, and shall there be filed ; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the Keeper of the Records of the said Supreme Court, shall be good and sufficient evidence of each such original Deed, instrument, or special resolution, in all actions, suits, and proceedings whatsoever, whether civil or criminal, to be had in any Court of Justice or before any Magistrate, or Revenue or other officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout the territories of the East India Company.

Service of process.

23. All services of mesne or other process, and all notices whatsoever, which, by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served and given, by leaving the same addressed to the Managing Agent of the said Company at the office in Calcutta of the said Company.

Recovery of penalties, etc.

24. All penalties and forfeitures imposed by this Act and all damages and expenses the recovery of which is not specially provided for, may be recovered by summary proceeding before a Magistrate.

Levy of distress.

25. All penalties, forfeitures, damages, and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained ; or instead of proceeding by distress and sale, or in case of failure to realise by distress the whole or any part of any penalties, forfeitures, damages, or expenses

imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage, or expenses may sue the person liable to pay the same in any Court of competent jurisdiction. No distress unlawful for want of form, etc.

26. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by any irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

27. The following words and expressions used in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a corporation whether aggregate or sole.

The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place.

The word "Magistrate" shall include any Magistrate of Police and any joint Magistrate or other person lawfully exercising the powers of Magistrate, acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises.

¹[THE MADRAS UNCOVENANTED OFFICERS ACT, 1857.]

ACT No. VII OF 1857.

[1st May, 1857.]

An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.

WHEREAS the exigencies of the public service require the more extended employment of uncovenanted officers in the Revenue and Preamble.

¹ Short title given by the Amending Act, 1901 (11 of 1901).

This Act is rep., so far as it relates to Deputy Magistrates, by the Repealing Act, 1873 (12 of 1873). It was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 4.

Under s. 3 (b) of the Scheduled Districts Act, 1874 (14 of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

Judicial Departments in the Presidency of Fort St. George ; It is hereby enacted as follows:—

Power to
appoint un-
covenanted
officers.

1. The ¹[²[State] Govt. of Madras] may appoint, in any zila or district within the ³[State], one or more uncovenanted Deputy Collectors and Deputy Magistrates with the powers hereinafter mentioned.

2. [Official oath or declaration.] Rep. by Indian Oaths Act, 1873 (X of 1873).

3. [Duties and powers of Deputy Collector.] Rep. by the Madras Deputy Collectors Act, 1914 (Mad. Act VII of 1914), s. 2.

4. [Duties and powers of Deputy Magistrates.] Rep. by Act XVII of 1862.

One officer
may hold
both offices.

5. Nothing in this Act contained shall be held to disqualify any uncovenanted officer appointed under this Act from holding at the same time the offices of Deputy Collector and Deputy Magistrate.

6. [Rules regarding dismissal of Deputy Collectors.] Rep. by the A. O. 1937.

⁴[THE SANTHAL PARGANAS ACT, 1857.]

Act No. X OF 1857.

[20th May, 1857.]

An Act to amend Act XXXVII of 1855.

Preamble.

WHEREAS by Act XXXVII of 1855 certain districts described in the schedule to the said Act were removed from the operation of the general Regulations and Acts ; and whereas it is expedient to make certain alterations in respect to the districts so removed ; It is enacted as follows :

Districts
removed
from opera-
tion of
General
Regulations
and Acts.

* * * * All the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act XXXVII of 1855.

¹ Subs. by the A. O. 1937 for "Governor of Fort St. George in Council".

² Subs. by the A. O. 1950 for "Provincial".

³ Subs. by the A. O. 1950 for "Province" which had been subs. by the A. O. 1937 for "said Presidency".

⁴ Short title given by the Amending Act, 1903 (I of 1903), Sch. I.

This Act extends to the Santhal Parganas, as described in the Schedule to Act 37 of 1855.

⁵ Certain words rep. by the Repealing Act, 1870 (14 of 1870).

SCHEDULE.

[Printed ante, p. 116.]

THE OPIUM ACT, 1857.

CONTENTS.

PREAMBLE.

SECTIONS.

- 1-2. [*Repealed.*]
3. Appointment of officers to superintend provision of opium.
4. Officers amenable to Civil Courts.
Bar of suit without previous application to Agent for redress.
5. Sanction to suit by Agent.
6. Power of Central Government to appoint officer to conduct suits.
7. Board to fix limits of cultivation and price to be paid to cultivators.
8. Issue of licenses.
What to be specified in license.
9. Cultivator to have option to engage to cultivate or not.
Officers compelling cultivator to engage liable to be dismissed.
District opium officer may withhold license to cultivate.
Appeal.
10. Penalty on cultivator receiving advances and not cultivating full quantity of land.
Adjudication of penalty.
Appeal.
11. Delivery of opium produced.
Opium not liable to distress or attachment.
Value thereof may be attached.
12. Opium to be weighed and classified by district opium officer.
Proceeding where cultivator is dissatisfied with classification.
13. Weighing and examination at sadar factory.
14. Confiscation of adulterated opium.
Adjudication of confiscation.
15. Weights and scales; examination thereof.

SECTIONS.

16. Adjustment of cultivators' accounts, and recovery of balance by distress.
Sanction to issue of warrant.
17. Penalty on officer taking bribes.
18. Exactions by landholders from *raiyat* recoverable, together with penalty, in summary suit before Collector.
19. Penalty for embezzlement of opium by cultivator.
20. Penalty for illegal purchase of opium from cultivator; and for illegal connivance at embezzlement by Opium-officer.
21. Penalty for unlicensed cultivation.
22. Duty of landholders and others to give information of illegal cultivation.
23. Duty of police and other officers to give information of illegal cultivation.
24. Police or *abkari daroga* how to proceed in case of illegal cultivation.
25. Landholders, etc., may attach in cases of illegal cultivation.
26. Adjudication of penalties.
27. Imprisonment in default of payment of fine.
28. Punishment for repetition of offences.
29. Place of imprisonment under section 28.
30. Disposal of fines and forfeitures.
31. Central Government may allow free cultivation of poppy and manufacture of opium in any district.
Power to prescribe rules for delivery to Government officers.
32. [*Repealed.*]

1[ACT No. XIII OF 1857.]

[6th June, 1857.]

An Act to consolidate and amend the law relating to the

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal and the former North-Western Provinces except the Scheduled Districts.

It has also been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (1) and Sch.; and in Oudh, subject to certain modifications, by the Oudh Laws Act, 1876 (18 of 1876), s. 3(e) and Sch. II. Ss. 21 to 23 and 25 to 29 of the Act have been declared to be in force in the C. P. by the C. P. Laws Act, 1875 (20 of 1875), s. 3 and Sch.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in:—

West Jalpaiguri in the Jalpaiguri

District

Kumaon, Garhwal, the scheduled

portion of the Mirzapore Dis-

trict and the Tarai Parganas

See Gazette of India, 1881, Pt. I, p. 74.

See Gazette of India, 1879, Pt. I, p. 383.

cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.¹

Whereas the existing law relating to the cultivation of the poppy Preamble. and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed;

And whereas it is also expedient² * * * that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended;

It is enacted as follows:—

1. [Laws repealed.] Rep. by the Repealing Act, 1870 (XIV of 1870).

2. [Prohibition of poppy cultivation and opium manufacture.] Rep. by the Opium Act, 1878 (I of 1878).

³[3. (1) The ⁴[Central Government], after consideration of any recommendation made in this behalf by the ⁵[State Government] of the ⁶[State] for which the appointment is to be made, may appoint Opium Agents to superintend the provision of opium for ⁷[the Central Government]. Appointment of officers to superintend provision of opium.

(2) The ⁴[Central Government] may appoint officers to assist the Opium Agents, under the designation of Deputy Agents, district opium officers, assistant opium officers, or such other designations as ⁸[it] may think fit, and may delegate to the Opium Agents the power of appointing all or any of such officers.

(3) Unless the ⁴[Central Government], after consideration of any recommendation made by the ⁵[State Government] in this behalf, otherwise directs, the Collector shall be Deputy Agent for his district.

(4) The ⁴[Central Government] may by rule prescribe the powers and duties of officers appointed under this section.]

The Districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan and the Porahat Estate in the district of Singhbhum, in the Chota Nagpur Division

See Gazette of India, 1881, Pt. I, p. 504.

The validity of the Act is not affected by the Dangerous Drugs Act, 1930 (2 of 1930), or by the rules made thereunder; see s. 39(2) of that Act.

¹In the application of this Act to Oudh, the words "and the territories under the administration of the Chief Commissioner of Oudh" should be deemed to have been inserted after the word "Bengal" in the long title, see Oudh Laws Act, 1876 (18 of 1876), Sch. II.

²The words "that certain obsolete Regulations relating to the provision of opium should be formally repealed and" rep. by the Amending Act, 1891 (12 of 1891).

³Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., for the original section.

⁴Subs. by the A. O. 1937 for "G. G. in C."

⁵Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

⁶Subs. by the A. O. 1950 for "Province".

⁷Subs. by the A. O. 1937 for "Govt."

⁸Subs. by the A. O. 1937 for "he".

Officers
amenable
to Civil
Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit
without
previous
application
to agent
for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before ¹[the Central Government], or at once to seek redress in the Civil Court.

Sanction to
suit by
Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of ¹[the Central Government].

Power of
Central
Government
to appoint
officer to
conduct
suits.

²[6. ³[The Central Government] may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which ³[the Central Government] or an Agent, or any other officer subordinate to ³[the Central Government], may be engaged, instead of leaving such superintendence to the Agent or any other officer.]

Board to fix
limits of
cultivation
and price to
be paid to
cultivators.

⁷. 4* * * * ³[the Central Government] shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of ³[the Central Government].

⁵[The Central Government] shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per seer of eighty *tolas* for opium of a certain standard consistence, and shall be subject to a rateable reduction according to a scale sanctioned by ⁶[the Central Government], for opium of a consistence below the standard.

Issues of
licenses.

8. The ⁷[district opium officers] or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of ³[the Central Government] at the established rates.

What to be
specified in
license.

Every license shall specify the number of *bighas* which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of ⁶[the Central Government] may

¹ Subs. by the A. O. 1937 for "Govt." which had been subs. for "the Board of Revenue" by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

² Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., for the original s. 6.

³ Subs. by the A. O. 1937 for "Govt."

⁴ The words "The Board of Revenue with the sanction of" rep. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

⁵ Subs. by the A. O. 1937 "Govt." which had been subs. for "With the like sanction they" by Act 27 of 1925.

⁶ Subs. by the A. O. 1937 for "Govt." which had been subs. for "the Board of Revenue" by Act 27 of 1925.

⁷ Subs. by Act 27 of 1925 for "Sub-Deputy Agents".

direct. A counterpart engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any ¹[district opium officer] or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Cultivator to have option to engage to cultivate or not.
Officers compelling cultivator to engage liable to be dismissed.

It shall be at the option of the ¹[district opium officer] or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

District opium officer may withhold license to cultivate.

Any person to whom a license has been refused may appeal to the Agent and the decision of the Agent shall be final.

Appeal.

10. If it shall be found that any cultivator who has received advances from ²[the Government] has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the ¹[district opium officer] or other officer as aforesaid.

Penalty on cultivator receiving advances and not cultivating full quantity of land.
Adjudication of penalty.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Appeal.

11. All opium the produce of land cultivated with poppy on account of ²[the Central Government] shall be delivered by the cultivators to the ³[district opium officers] or ⁴[other officers duly authorized to receive such opium], or shall be brought by them to the *sadar* factory, as the Agent may direct.

Delivery of opium produced.

And no such opium shall be liable to be distrained or attached by a *zamindar* or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or ⁵[other] officer under the rules in force for such attachments.

Opium not liable to distress or attachment.
Value thereof may be attached

¹ Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., for "Sub-Deputy Agent".

² Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Govt".

³ Subs. by Act 27 of 1925, s. 2 and Sch., for "Sub-Deputy Agents".

⁴ Subs. for "other district officers", *ibid.*

⁵ Subs. for "of the district", *ibid.*

Opium to be weighed and classified by district opium officer.

12. All opium delivered by the cultivators to the ¹[district opium officer] or ²[other officer authorised as aforesaid] shall, before it is forwarded to the *sadar* factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by ³[the Central Government].

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the ⁴[receiving officer] shall be at liberty either to take his opium to the *sadar* factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at *sadar* factory.

13. All opium forwarded by the ⁵[receiving] officers to the *sadar* factory, and all opium delivered at the *sadar* factory, by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by ³[the Central Government]; and the quality and consistence of the opium, and deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a ⁶[receiving] officer, or at the *sadar* factory, is suspected of being adulterated with any foreign substance it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

Weights and scales;

15. The weights and scales made use of in the *sadar* factories and at the district *kothis* shall be provided by ³[the Central Government].

examination thereof.

Every ⁴[district opium officer] shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

¹ See footnote 1 on pre-page.

² Subs. for "other district officer" by the Opium (Amendment) Act, 1925 (27 of 1925).

³ Subs. by the A. O. 1937 for "Govt." which had been subs. for "the Board of Revenue" by Act 27 of 1925.

⁴ Subs. by Act 27 of 1925 for "district officer".

⁵ Subs. for "district" *ibid.*

⁶ Subs. by Act 27 of 1925, s. 2 and Sch., for "district".

The Agent shall make a similar examination of the weights and scales of the *sadar* factory, and shall report the result to ¹[the Central Government].

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

16. The accounts of the cultivators shall be adjusted annually by the ²[district opium officers or other officers duly authorized in this behalf] as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any *mahto* or intermediate manager, may be recovered by the ³[adjusting officer] by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held *khas* may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue: Adjustment of cultivators' accounts and recovery of balance by distress.

Provided that no warrant of distress and sale shall be issued by any ³[adjusting officer] without the sanction of the Agent previously obtained. Sanction to issue of warrant.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees. Penalty on officer taking bribes.

18. If any zamindar or other proprietor of land, or any farmer of land shall exact from any *raiyat* on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the *raiyat*, or the ⁴[district opium officer] or ⁵[other officer duly authorized in this behalf], may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent. Exactions by land-holder from *raiyat* recoverable, together with penalty, in summary suit before Collector.

¹ Subs. by the A. O. 1937 for "Govt." which had been subs. for "the Board" by the Opium (Amendment) Act, 1925 (27 of 1925).

² Subs., *ibid.*, for "district officer".

³ Subs. by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch., for "district officer".

⁴ Subs. for "Sub-Deputy Agents", *ibid.*

⁵ Subs. for "other district officer on his behalf", *ibid.*

Penalty for
embezzle-
ment of
opium by
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of ¹[the Central Government] who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for
illegal
purchase of
opium from
cultivator ;

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of ¹[the Central Government], or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

and for
illegal con-
nivance at
embezzle-
ment by
Opium
officer.

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for
unlicensed
cultivation.

21. Any person who shall cultivate the poppy without license from a ²[district opium officer] or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha* ; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated.

Duty of
landholders
and others
to give
information
of illegal
cultivation.

22. All proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall give immediate information to the police or *abkári darogas*, or opium *gumáshtas*, or to the Magistrates, Collectors or officers in charge of the *abkári mahál*, or to the Agents, their deputies or ³[the district opium officers], of all poppy which may be illegally cultivated within the estates or farms held or managed by them ; and every proprietor, farmer, *tahsildar*, *gumáshta* or other

¹ Subs. by the A. O. 1937 for "Govt."

² Subs. for "Sub-Deputy Agent" by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

³ Subs. for "Sub-Deputies", *ibid.*

manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

23. All police and *abkâri darogas*, and opium *gumâshtas*, and all ¹*officers of ²[the Government] of whatever description, and all *chaukidars*, *paiks* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the ³[district opium officer] or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of ⁴[the Central Government], or to the Collector or officer in charge of the *abkâri mahâl* if in a district where the poppy is not so cultivated.

Duty of police and other officers to give information of illegal cultivation.

Every police or *abkâri daroga*, opium *gumâshta*, ¹*officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

24. Whenever a police or *abkâri daroga* or opium *gumâshta* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

Police or *abkâri daroga* how to proceed in case of illegal cultivation.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

25. Proprietors, farmers, *tahsildars*, *gumâshtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkâri daroga* or opium *gumâshta*, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Landholders, etc., may attach in case of illegal cultivation.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or ³[district opium officer] in districts in which the poppy is cultivated on account of

Adjudication of penalties.

¹ The word "Native" was rep. by the A. O. 1950.

² Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Govt."

³ Subs. for "Sub-Deputy Agent" by the Opium (Amendment) Act, 1925 (27 of 1925), s. 2 and Sch.

⁴ Subs. by the A. O. 1937 for "Govt."

¹[the Central Government], and in other districts on the information of the Collector or officer in charge of the *abkâri mahâl* :

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprison-
ment in
default of
payment of
fine.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months or until the fine is sooner paid.

Punishment
for repetition
of offences.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months ; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment, which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of
imprisonment
under section
28.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of ²[the Government] or a village police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of
fines and
forfeitures.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the ³[Opium Agent] may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to ⁴[him] fit.

Central
Government
may allow
free
cultivation

31. The ⁵[Central Government] may authorize, by an order
* * *, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a ⁷[district opium officer] or other officer of ²[the Government]; and, when such

¹ Subs. by the A. O. 1937 for "Govt."

² Subs. by the A. O. 1950 for "the Crown" which had been subs. by the 1937 for "Govt."

³ Subs. by the Opium (Amendment) Act, 1925. (27 of 1925), s. 2 and Sch. for "Board of Revenue".

⁴ Subs. for "them", *ibid.*

⁵ Subs. by the A. O. 1937 for "Governor General of India in Council".

⁶ The words "of Govt." rep. by the A. O. 1937.

⁷ Subs. by Act 27 of 1925 for "Sub-Deputy Opium Agent".

1857 : Act XXI.]

Howrah Offences.

order has been published, all the provisions of this Act shall cease to have effect in such district or districts :

of poppy and
manufacture
of opium in
any district.

Provided always that ¹[the Central Government] may prescribe rules for the delivery of the opium so produced to officers of ²[the Government] appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of ²[the Government] or of any other person.

Power to
prescribe
rules for
delivery to
Government
officers.

32. ³[Meaning of "Government."] Rep. by the A. O. 1937.

THE HOWRAH OFFENCES ACT, 1857.

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¹ Subs. by the A. O. 1937 for "the Govt."

² See footnote 2 on pre-page.

³ S. 32 which was added by Act 27 of 1925 read as follows:—"In this Act except in s. 23, where the word occurs for the first time, and in s. 29 'Govt.' means the 'G. of I.'"

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¹[THE HOWRAH OFFENCES ACT, 1857.]

ACT No. XXI OF 1857.

[10th July, 1857.]

An Act to make better provision for the order and good government * * * of the station of Howrah.

Preamble.

WHEREAS Acts have been passed for regulating the police and for the conservancy and improvement of the town of Calcutta and of

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

² This Act applies only to Howrah.

³ The words "of the suburbs of Calcutta and" rep. by the Repealing Act, 1874 (16 of 1874).

the other presidency-towns; and whereas large portions of
 1* * * the station of Howrah are not less populous than parts of
 the said town, and it will conduce to the order and good government
 of the said 2* * * station that some of the provisions of the said
 Acts, with certain necessary modifications, should be extended to the
 said 2* * station; It is enacted as follows:—

1. Whoever is charged with having committed any of the offences mentioned in this Act, within the limits of the said 3* * station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed; Cases under this act by whom to be tried.

and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner, anything which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months. Possession of stolen property by one who fails to account satisfactorily for the possession.

Clause 2.—If any person, charged with having or conveying anything stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant to convey the same for some other person, Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same;

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months. Penalty if such possession fraudulent.

3. Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another; Apprehension and punishment of reputed thieves, etc.

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

¹ The words "the suburbs of the said town of Calcutta and of " rep. by the Repealing Act, 1874 (16 of 1874).

² The words "suburbs and" rep., *ibid.*

³ The words "suburbs of" rep., *ibid.*

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid ;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein ;

and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking,

shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months ;

and any such person may be taken into custody by any police-officer without a warrant.

4 to 6. [*Penalty for carrying arms without authority ; order for maintenance of wives or children ; penalty for harbouring deserters from merchant-vessels.*] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

Brothels.

7. On the complaint of three or more householders that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint ;

and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it ;

and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

8, 9. [*Licenses for retail sale of spirituous or fermented liquors.*] Rep. by the Bengal Municipal Act, 1884 (Ben. Act. III of 1884).

Penalty for
owning or
keeping, or
having
harge of
a gaming-
house, etc.

10. Whoever, being the owner or occupier, or having the use of any house, room or place, keeps or uses the same as a common gaming-house ;

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house ;

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used ;

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

11. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or

Penalty for being found playing in a gaming-house.

is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise,

shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month ;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

12. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police

Magistrate may authorize certain police-officers to enter a gaming-house for the purpose of search and seizure.

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place,

and to take into custody all persons whom he finds therein whether or not then actually gaming,

and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein,

and to search all parts of the house, room or place which he shall have so entered when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody,

and to seize and take possession of all instruments of gaming found upon such search.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate ;

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited ; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

14. The Magistrate may direct any portion, not exceeding one-fourth of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Portion of fine may be paid to informer.

Gambling in
the streets.

15. A police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming in any public street, place or thoroughfare ;

and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month ;

and such instruments of gaming and money shall be forfeited.

Exemption
of games
of mere
skill.

¹[15A. Nothing in sections 10 to 15 shall apply to any game of mere skill wherever played.]

16, 17. [*Pawnbrokers, etc., to report stolen property ; pawnbrokers,, etc., when to be deemed, receivers of stolen goods.*] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

Manufacture
or possession
of gun-
powder.

18. Whoever manufactures gunpowder.

or, without a license from the Magistrate, has in his possession in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds,

shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by
Magistrate
for sale and
deposit of
gunpowder,
etc.

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds on such conditions, and for such term not exceeding one year, as shall be specified in the license ;

and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Penalty for
drunkenness,
or riotous or
indecent
behaviour in
public.

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort,

and whoever is guilty of violent behaviour in any police-office,

shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for
committing
nuisance in
streets.

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

¹ Ins. by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 3.

22. Whoever in any public road, street, thoroughfare or place, begs ^{Beggars.} or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms,

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences shall be liable to a fine not exceeding twenty rupees :—

Penalty for the following offences in public streets, etc.—

i.—Whoever drives or rides any animal or drives any vehicle in a manner so rash or negligent as to indicate a want of due regard for the safety of others :

furious or negligent driving or riding ;

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal :

letting loose horses, ferocious dogs, etc.

iii.—Whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control :

leaving cart, etc., without control :

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers :

obstruction to passengers by fastening animals :

v.—Whoever cruelly beats, abuses or tortures any animal :

ill-treating animals :

vi.—Whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

lighting fires and discharging guns, fire-works, etc.

24. [Beating drums, tomtoms, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

25 to 32. [Penalty for depositing dirt on street, etc.; allowing sewerage to flow on street; future obstructions in street; taking up pavement; removal of projections from houses; houses projecting to be set back when taken down; power to trim hedges bordering on roads.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).

33 to 37. [Houses in dangerous state; sale of materials of such houses; penalty for not removing filth; filthy houses, etc.; filthy cattle-stalls, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

38. [Licensing of public necessities.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876.)

39. [Neglecting private drains, etc.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

40 to 45. [Penalty for fouling water; power to fill up unwholesome tanks; power to drain off stagnant pools; penalty for not lighting deposits of building materials or excavations; enclosing of dangerous places; penalty for establishing slaughter-houses without license.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act V of 1876).

46. [Unclean slaughter-houses.] Rep. by the Bengal Municipal Act, 1884 (Ben. Act III of 1884).

47 to 50. [Offensive trades; burial and burning grounds; stray dogs.] Rep. by the Bengal Municipal Act, 1876 (Ben. Act. V of 1876).

Police-officer
may arrest
without
warrant on
view of
offence.

51. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

Police-officer
may take into
custody,
without
warrant,
persons
charged with
aggravated
assault
recently
committed.

52. Any police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Persons
taken into
custody by a
police-officer
without
warrant may
be detained
in police-
office until
brought
before
Magistrate
or bailed.

53. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties for his appearance before the Magistrate.

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Procedure on
information
or complaint
laid before
the Magis-
trate of an
offence
against this
Act.

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or, if he see sufficient cause for so doing may issue a warrant for his apprehension.

1* * * * *

In all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence.

2* * * * *

¹ Certain words rep. by the Amending Act, 1903 (1 of 1903).

² The words "Provided also that no appeal shall lie from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal under s. 49 of this Act," rep. by the Amending Act, 1891 (12 of 1891).

55. [Recovery of costs or expenses.] Rep. by the Amending Act, 1903 (I of 1903).

56. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

57. ¹[Application of fines.] Rep. by the A. O. 1937.

58. [Supersession of Act XXI of 1841.] Rep. by the Amending Act, 1891 (XII of 1891).

59. In the construction of this Act,

2* * * * *

Interpreta-
tion.

³["gaming" includes wagering or betting (except wagering or betting upon a horse-race, when such wagering or betting takes place—

(a) on the day on which such race is to be run, * * *

(b) in an enclosure which the Stewards controlling such race have, with the sanction of the ⁵[State Government], set apart for the purpose, ⁶[and

(c) (i) with a licensed bookmaker, or

(ii) by means of a totalisator,

as defined in section 14 of the Bengal Amusements Tax Act, 1922]), but does not include a lottery; "instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and "common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever.]

¹The section read as follows:—

"All fines imposed and levied under this Act shall be applied in aid of any fund applicable to police and conservancy purposes in the said station;

and all costs and expenses which the Magistrate is hereby authorized to incur shall be paid from and repaid to such fund; or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said station."

See para. 4 of the India and Burma (Transitory Provisions) Order, 1937.

²The clauses relating to "number" and "gender" rep. by the Amending Act, 1903 (1 of 1903).—See now the General Clauses Act, 1897 (10 of 1897), s. 13.

³Subs. by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 2, for the original definitions which had been inserted by the Bengal Rain-Gambling Act, 1897 (Ben. Act 3 of 1897), s. 3.

⁴The word "and" rep. by the Bengal Amusements Tax Act, 1922 (Ben. Act 5 of 1922), s. 23.

⁵Subs. by the A. O. 1950 or "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

⁶Ins. by the Bengal Amusements Tax Act, 1922 (Ben. Act 5 1922), s. 23.

¹SCHEDULE.

Of places included in the ² * * * Station of Howrah.*

3 * * * * *

STATION OF HOWRAH.

Howrah (including)

Panchánantalá.

Juláhápára.

Chándmári (with Tandel Bágán).

North Betrá.

South Betrá.

Ichápur.

Saunpur.

Goládángá.

Rámkrishnapur.

Khurát (with Kasondiyá).

Chakarber.

Santrágáchhi.

Sathgharra.

Gudár Hát (with Kinkar Chatterjea's Hát).

Battore.

Sibpur (with Baji Sibpur, Majerhát, Bharpára, Bhattatalá, Sriharinaupára, Bishop's College and Company's Botanical Garden).

Padmapukhar.

South Baksará.

North Baksará.

Salkiya (including)

Bándághát (with Haraganj and Bánurjyapára).

Ghoosery (with Bhát Bágán).

Málipánchghará.

Barrackpore.

Bellur.

Naksha.

Chakpára.

Nallua.

Belgáchhiyá (with Paikán Belgáchhiyá).

Báhmangachchi.

Chaurásta (with Dharmtalá, Goghátá and Bábudángá).

Golábári (with Filkhána).

¹ See s. 1, *supra*.

² The words "Suburbs of Calcutta and" rep. by the Repealing Act, 1874 (16 of 1874).

³ The part of this Schedule which was headed "Suburbs of Calcutta" was rep. by the Repealing Act, 1874 (16 of 1874).

¹[THE MADRAS COMPULSORY LABOUR ACT, 1858.]

ACT No. I OF 1858.

[20th January, 1858.]

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers and canals, and of anicuts and other like works ; and it is necessary for the common good to make it obligatory on persons of the labouring classes, when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly ; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village-communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage ; It is enacted as follows:— Preamble.

Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the labouring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach, as the case may be. Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.

In the absence of the said officer, it shall be lawful for the táhsildár of the taluq to make such requisition in his stead.

¹ Short title given by the Amending Act, 1901 (11 of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 4 and Sch. II, to be in force in the whole of the Presidency of Madras except the Scheduled Districts.

It has been repealed in Orissa by Orissa Act 10 of 1948.

Under s. 3 (b) of the Scheduled Districts Act, 1874 (14 of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872. The Act has been extended by a notification under s. 5 of the same Act to the Vizagapatam Agency and the Bhadrachalam and Nugur taluks of the Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553. The Act has been declared by a notification under s. 3 (a) of the same Act to be in force in the Dutcharti and Guditer Muttas of the Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553.

And if neither the said officer nor the táhsildár is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion, to call upon the labourers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the labourers of their villages, to co-operate in the work necessary for preventing or repairing the breach.

Punishment
for refusing
or neglecting
to comply
with such
call.

2. Any male person of the labouring classes being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of re-
muneration.

3. Every person who shall be employed on such work, under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work and, if he is required to work at night, at double such rate.

Mode of
payment. [§]
Recovery of
advances
from private
persons.

4. Payment shall be made to the labourers from the public treasury; and, if the labourers shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land revenue.

Requisition
for the
supply of
materials,
etc., from
villagers

¹[5. It shall be lawful for heads of villages, on the requisition of the officer in charge of such works, as aforesaid, or in his absence, on the requisition of the táhsildár or in case of emergency when neither such officer nor the táhsildár is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, earth, stone, trees and leaves, bamboos, straw, gunny bags and the like, necessary for preventing or repairing breaches in the embankments of tanks, rivers and canals, and to remove or seize and, if necessary, to cut down such materials wherever they may be found, giving receipts for them in writing; such materials shall be paid for from the public treasury at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting down of any such materials, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under section 6. When the work for which such articles are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land-revenue are recoverable.]

Liability of
person
refusing
to contribute

6. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith is usually executed by the joint labour of a village-community, any person bound by such custom to

¹ Subs. by the Madras Compulsory Labour (Amendment) Act, 1935 (Mad. Act 9 of 1935), s. 2, for original section.

1858: Act III.]

State Prisoners.

contribute labour to such work, who neglects or refuses without labour to reasonable cause to comply with a requisition for such customary aid work usually made to him by the head of the village under the orders of the táhsíl executed by village-dár or other superior Revenue-officer, shall be liable to pay a sum by village-community equal to twice the value of the labour which he is bound to contribute.

The amount so payable shall, in case of dispute, be determined summarily by a Village ¹* * Pancháyat assembled by order of the Collector through the Village ¹* * Munsif according to the rules for assembling such Pancháyats prescribed in Regulations V and VII of 1816². ^{Mode of determining amount payable.}

Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of land-revenue are recoverable. ^{Recovery.}

All sums paid or recovered under this section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village-communities to which the defaulters respectively belong. ^{Appropriation.}

³[THE STATE PRISONER ACT, 1858.]

ACT No. III OF 1858.

[23rd January, 1858.]

An Act to amend the Law relating to the arrest and detention of State Prisoners.

4 * * * * *

1. [Repeal of part of s. 1, clause first of Bombay Regulation XXV of 1827.] Rep. by the Repealing Act, 1870 (XIV of 1870).

2. [Regulations as to arrest and confinement of State Prisoners in force within Presidency-towns.] Rep. by the A. O. 1937.

XXXIV of
1850.

3. ⁵[The provisions of section one of the State Prisoners Act, 1850 (which relate to the persons to whom warrants of commitment under ^{Persons to whom warrants of}

¹ The words "or District" rep. by the Repealing Act, 1874 (16 of 1874).

² Mad. Reg. 5 of 1816 rep. by the Madras Village Courts Amendment Act, 1919 (Mad. Act 2 of 1920), and Mad. Reg. 7 of 1816 rep. by the Repealing Act, 1874 (16 of 1874).

³ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

⁴ Preamble rep. by the A. O. 1937.

⁵ Subs. by the A. O. 1937 for the original section.

Bengal Alluvial Land Settlement. [1858 : Act XXXI.]

commit-
ments may
be addressed
and effect of
warrants of
commit-
ment.

the Bengal State Prisoners Regulation, 1818, may be addressed, and the effect of such warrants) shall apply in relation to warrants of commitment under Regulation II, 1819, of the Madras Code, and Regulation XXV, 1827, of the Bombay Code, as they apply in relation to warrants of commitment issued under the Bengal State Prisoners Regulation, 1818, by virtue of the powers conferred thereby on ¹[State] Governments.] Ben. Reg.
III of 1818.

4. [Arrests, etc., made before the passing of this Act legalized.] Rep. by the Amending Act, 1891 (XII of 1891).

Removal of
State
prisoners
from one
State to
another
State.

5. ²[(1) A State prisoner who is or is to be confined in any ³[State] under the provisions of any of the said Regulations for reasons connected with the maintenance of public order therein may, by arrangement between the ¹[State] Governments concerned, be transferred to or, as the case may be, retained in another ³[State] and confined in that other ³[State] in accordance with that one of the said Regulations which is in force in that other ³[State] in all respects as if reasons connected with the maintenance of public order in that other ³[State] required his confinement therein.

(2) Nothing in this section shall be construed as limiting the power of the Central Government to transfer State prisoners from one place of confinement in a ⁴[Part A State] or a ⁵[Part C State] to another place of confinement in that or any other ³[State], or the power of a ¹[State] Government to transfer State prisoners from one place of confinement in the ³[State] to another place of confinement in the ³[State].]

Extent.

⁶[6. This Act extends to ⁷[the whole of India except Part B States].]

⁸[THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858.]

ACT No. XXXI OF 1858.

[24th August, 1858.]

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down

¹ Subs. by the A. O. 1950 for "Provincial".

² Subs. by the A. O. 1937 for the original section.

³ Subs. by the A. O. 1950 for "Province".

⁴ Subs. by the A. O. 1950 for "Governor's Province".

⁵ Subs. by the A. O. 1950 for "Chief Commissioner's Province".

⁶ Ins. by the A. O. 1937.

⁷ Subs. by the A. O. 1950 for "all the Provinces of India" which had been subs. by the A. O. 1948 for "the whole of British India (including Berar)".

⁸ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

certain rules to be observed in the settlement of such land ; It is enacted as follows:—

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the *jama* of the original estate ; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former *jama* of the original estate.

If the proprietor or proprietors object to such an arrangement, or if the Revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate *jama*, and shall thenceforward be regarded and treated, as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement.

The separate settlement may be permanent, if the settlement of the original estate is permanent.

2. Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, ¹Regulation 11, 1825.

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in ²Regulation 7, 1822 ; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

The provisions of the said ¹Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6, to be in force throughout the former Province of Bengal except the Scheduled Districts.

It has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2).

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in:—

West Jalpaiguri in the Jalpaiguri District

The Districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, and the Kolhan in the District of Singhbhum in the Chota Nagpur Division

See Gazette of India, 1881, Pt. I, p. 74.

Ditto 1881, Pt. I, p. 504.

¹ The Bengal Alluvion and Diluvion Regulation, 1825.

² The Bengal Land-revenue Settlement Regulation, 1822.

Bengal Ghatwali Lands.

[1859 : Act V.]

3. [Separate settlements heretofore made ; saving of rights.] Rep. by the Amending Act, 1903 (1 of 1903).

¹[THE BENGAL GHATWALI LANDS ACT, 1859.]

ACT No. V OF 1859.

[4th March, 1859.]

An Act to empower the holders of *Ghatwal* lands in the district of Birbhoom to grant leases extending beyond the period of their own possession.

Preamble.

WHEREAS it has been held that the *ghatwals* of the district of Birbhoom who pay the revenue of their lands directly to Government under the provisions of ²Regulation 29, 1814, of the Bengal Code have not the power of alienating their lands ;

And whereas, for the development of the mineral resources of the country in which the said *ghatwali* lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands :

It is enacted as follows :—

Right of
ghatwals of
Birbhoom to
grant leases.

1. *Ghatwals* holding lands in the district of Birbhoom under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands :

Proviso.

Provided that no lease of *ghatwali* lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Court of
Wards and
Revenue
authorities
have like
power in
certain
cases.

2. If any of the said *ghatwali* lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of ³[the Government], it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid ; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

This Act was passed only for the district of Birbhoom—see the title and s. 1.

It has also been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (1) and Sch. as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3.

² The Bengal Ghatwali Lands Regulation, 1814.

³ Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Govt."

¹[THE FORFEITURE ACT, 1859.]

ACT No. IX OF 1859.

[30th April, 1859.]

An Act to provide for the adjudication of claims to property seized as forfeited.

WHEREAS it is expedient * * * * * to remove doubts Preamble.
concerning the powers of officers or other persons to whom commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such officers or other persons ; It is enacted as follows:—

1 to 15. [Constitution, procedure, &c., of Special Commission Courts.] Rep. by the Repealing Act, 1868 (VIII of 1868).

16. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property to question the validity of the conviction. Convictions involving forfeiture not questionable in suits relating to forfeited property.

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The object of the unrepealed parts of this Act is stated to be “to give validity to certain forfeitures or seizures of property which have been or are liable to be called in question on the ground of some irregularity of procedure or defect or informality in recording the conviction of the parties whose property has been forfeited or seized or of the absence of a formal adjudication of forfeiture as required by the Forfeiture Act, 1857 (25 of 1857)”. (*Statement of Objects and Reasons, first paragraph.*)

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been extended, under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to the following Scheduled Districts, namely:—

Kumáon and Garhwál See Gazette of India, 1876, Pt. I, p. 606.

The Taráí of the Province of Agra Ditto 1876, Pt. I, p. 505.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri See Gazette of India, 1881, Pt. I, p. 74.

The District of Hazáribágh Ditto 1881, Pt. I, p. 507.

The District of Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44) Ditto 1881, Pt. I, p. 508.

The District of Mánbhum Ditto 1881, Pt. I, p. 509.

Pargana Dhálbhum in the District of Singbhum Ditto 1881, Pt. I, p. 510.

The Scheduled portion of the Mirzápur District Ditto 1879, Pt. I, p. 383.

Jeunsar Báwar Ditto 1879, Pt. I, p. 382.

The Scheduled Districts of the C. P. Ditto 1879, Pt. I, p. 771.

The Scheduled Districts in Ganjam and Vizagapatam Ditto 1898, Pt. I, p. 870.

Assam (except the North Lusháí Hills) Ditto 1897, Pt. I, p. 299.

² Certain words rep. by the Amending Act, 1891 (12 of 1891).

Calcutta Pilots.

[1859 : Act XII.]

Conviction
not
questionable
because
capacity of
convicting
officer not
shown.

17. Whenever any person shall have been convicted as above by an officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Attachment
without
adjudication
of forfeiture
not question-
able unless
offender be
acquitted
within one
year, etc.

18. Whenever any property shall have been attached or seized without either conviction or an adjudication of forfeiture by any officer of Government as property forfeited or liable to be forfeited to Government for an offence for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property have surrendered himself for trial, and upon trial before a competent Court shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice.

Exemption of
pardoned
persons,

Nothing in this section shall extend to persons entitled to pardon upon Her Majesty's proclamation published in the *Calcutta Gazette Extraordinary*, dated the 1st of November, 1858, or to any person who, having surrendered himself within the period of one year after the seizure of his property shall be ¹[duly discharged] without a prosecution.

Rights of
parties not
charged
with offence
involving
forfeiture.
Proviso.

19. [Release of property attached as forfeited.] Rep. by the Repealing Act, 1868 (VIII of 1868).

20. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited in respect of any property attached or seized as forfeited or liable to be forfeited to Government: Provided that no suit brought by any party in respect of such property shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates.

THE CALCUTTA PILOTS ACT, 1859.

CONTENTS.

PREAMBLE.

SECTIONS.

1. [Repealed.]
2. Trial of pilots accused of breach of duty.
3. Appointment of Judge.

¹ Subs. by the A. O. 1937 for "discharged by order of Govt."

SECTIONS.

4. Appointment of prosecutor.
5. Trial to be held before Judge and jury.
6. Lists of merchants and pilots liable to serve on jury.
7. Notice to prosecutor and accused of time and place for appointing jury.
8. Appointment of jury.
9. Day of trial to be fixed and summons to issue to jurors.
Penalty for non-attendance.
10. Trial how to proceed if any juror does not attend.
11. Register of jurors who have served.
12. [*Repealed.*]
13. Judge may summon witnesses to attend at certain time and place.
Examination of witnesses about to leave Calcutta.
14. Penalty for witnesses not attending or refusing to give evidence.
15. Arrest.
16. Verdict of jurors.
17. Sentence if accused found guilty.
Preparation of schedule of offences and punishments.
Acquittal.
18. No sentence final till approved by Government.
Government may remit sentence or mitigate punishment.
19. If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient.
20. Power to make rules.
21. Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.
22. Withdrawal of license from licensed pilot.
23. Act applicable to persons in Pilot-service and to licensed pilots.

 ACT No. XII OF 1859¹.

[4th May, 1859.]

An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal² for breach of duty.

WHEREAS it is expedient to amend the law for the trial of persons employed in ³[the Hooghly Pilot Service of the Commissioners for the Port of Calcutta], when accused of breach of duty, and to extend the

¹ Short title given by the Amending Act, 1903 (1 of 1903), Sch I.

This Act applies to all persons employed in the Pilot Service at the Presidency (i.e., at Calcutta) and borne on the rolls of the Government establishment, and to all persons licensed to act as pilots at the Presidency (i.e., at Calcutta). See s. 23.

² i.e., at Calcutta.

³ Subs. for the words "the Pilot Service of Government at the Presidency of Fort William in Bengal" by s. 11 of the Calcutta Port (Pilotage) Act, 1948 (33 of 1948) (with effect from 16th May, 1948).

same to persons licensed to act as pilots at the said Presidency¹. It is enacted as follows:

1. [Repeal of Acts XXIV of 1845 and I of 1851.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Trial of pilots
accused of
breach of
duty.

2. When any person employed in ²[the Hooghly Pilot Service of the Commissioners for the Port of Calcutta], or licensed to act as a pilot at the said Presidency¹, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the ³[Port Officer] or to the ⁴[Central Government] that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said ³[Port Officer], or such other person as the ⁵[Central Government] shall direct, before a Court constituted under the provisions of this Act.

Appointment
of Judge.

3. The ⁴[Central Government] shall appoint a fit person to be Judge of the said Court.

Appointment
of prosecutor.

4. The ⁶[Central Government] shall appoint such person as ⁷[it] may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be
held before
Judge and
jury.

5. Every trial under this Act shall be held before the said judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Lists of
merchants
and pilots
liable to
serve on
jury.

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated.

Notice to
prosecutor
and accused
of time and
place for
appointing
jury.

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial.

Appointment
of jury.

8. At the time and place mentioned in the notice the Judge in the presence of the prosecutor and the person accused shall read over

¹ i.e., at Calcutta.

² Subs. for the words "the Pilot Service of Government at the Presidency of Fort William in Bengal" by s. 11 of the Calcutta Port (Pilotage) Act, 1948 (33 of 1948) (with effect from 16th May, 1948)

³ Subs. for "Superintendent of Marine" by the Amending Act, 1903 (1 of 1903), Sch. II.

⁴ Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "Lieutenant-Governor of Bengal".

⁵ Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 11 of 1929, s. 2, for "said Lieutenant-Governor".

⁶ Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 11 of 1929, s. 2, as amended by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for "Lieutenant-Governor".

⁷ Subs. by the A. O. 1937 for "he".

the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial; and shall also propose the name of a master of a merchant-ship lying in the Port of Calcutta whom he deems qualified to serve on such jury.

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial.

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge.

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid.

9. When a jury has been appointed under the last preceding section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury.

Day of trial to be fixed and summons to issue to jurors.

If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge.

Penalty for non-attendance.

Such warrant may be transmitted by the Judge to any ¹[Presidency Magistrate] for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

10. If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may with the consent of the prosecutor and the party accused be held before the judge and such jurors as shall be in attendance.

Trial how to proceed if any juror does not attend.

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid.

¹ Subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2 (2), for "Magistrate of Police".

If the parties or either of them do not consent that the trial shall be held before the Judge and such jurors as may be in attendance and the place of the absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of
jurors who
have served.

11. The Judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act.

A juror who has served shall not be required again to serve and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.

12. [*Jurors to be sworn.*] Rep. by the Indian Oaths Act, 1873 (X of 1873).

Judge may
summon
witnesses
to attend at
certain time
and place.

Examination
of witnesses
about to
leave
Calcutta.

13. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial:

Provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat in which case his previous examination may also be read at the trial.

Penalty for
witnesses not
attending or
refusing to
give
evidence.

14. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.

Arrest.

15. ¹[(1) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject nevertheless, to any general or special instructions from the ²[Central Government]) to enter any vessel.

¹ Ins. by the Calcutta Pilots (Amendment) Act, 1883 (6 of 1883), s. 1; the original s. 15 relating to examination of witnesses on oath, affirmation or otherwise having been rep. by the Indian Oaths Act, 1873 (10 of 1873).

² Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "L. G."

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officer of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to affect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

(3) No person shall be detained under this section for more than forty-eight hours.]

16. Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge.

The verdict shall be according to the opinion of the majority of jurors. If the jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the jurors with whom he concurs.

17. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot-service, or to have his license withdrawn, or shall award such other punishment, by loss of rank ¹ * * *, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit.

The ²[Central Government], * * * * * may prepare a schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and, if such schedule be prepared ³ * and the charge proved before the said Court is an offence specified in such schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said schedule, and no other.

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

18. The proceedings of the Court shall be sent by the Judge to the ⁴[Port Officer] for submission to the ⁵[Central Government] and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the ⁶[Central Government].

¹ The words "or pay" rep. by the Calcutta Pilots (Amendment) Act, 1920 (Ben. Act 4 of 1920), s. 2.

² Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "Lieutenant-Governor of Bengal."

³ The words "with the sanction of the G. G. in C." rep. by the Decentralisation Act, 1914 (4 of 1914), s. 2 and Sch.

⁴ The words "and sanctioned" rep. by the Decentralisation Act, 1914 (4 of 1914), s. 2 and Sch.

⁵ Subs. for "Superintendent of Marine" by the Amending Act, 1903 (1 of 1903), Sch II.

⁶ Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 11 of 1929, s. 2, for "said Lieutenant-Governor".

Government may remit sentence or mitigate punishment.

The ¹[Central Government] may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court as ²[it] shall think fit.

If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient.

19. If it shall appear to the Judge of the said Court that the verdict of the jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the ³[Central Government] and the ¹[Central Government] may either order a new trial before another jury or acquit the accused person, as ²[it] shall think fit.

Power to make rules.

20. It shall be lawful for the ³[Central Government] to make such rules as ²[it] shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

21. Nothing contained in this Act shall be held to restrict ⁴[the Commissioners for the Port of Calcutta] from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot-service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act; ⁵[provided that no order for suspension, reduction or deprivation of appointment shall be made without the previous sanction of the Central Government].

Withdrawal of license from licensed pilot.

22. If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said Presidency.⁶

Act applicable to persons in Pilot-service and to licensed pilots.

23. The provisions of this Act shall extend to ⁷[all persons employed in the Hooghly Pilot Service and borne on the rolls of the Commissioners for the Port of Calcutta], whether such persons received fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said Presidency.⁶

¹ Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Bengal Pilot Service (Centralisation of Administration) Act, 1929 (11 of 1929), s. 2, for "said Lieutenant-Governor".

² Subs. by the A. O. 1937 for "he".

³ Subs. by the A. O. 1937 for "G. G. in C." which has been subs. by Act 11 of 1929, s. 2, for "Lieutenant-Governor of Bengal".

⁴ Subs. by the Calcutta Port (Pilotage) Act, 1948 (33 of 1948), s. 11, for "the marine authorities or the Government" (with effect from 16th May, 1948).

⁵ Ins. by Act 33 of 1948, s. 11 (with effect from 16th May, 1948).

⁶ i.e., at Calcutta.

⁷ Subs. by the Calcutta Port (Pilotage) Act, 1948 (33 of 1948), s. 11, for "all persons employed in the Pilot-service at the said Presidency and borne on the rolls of the Government establishment" (with effect from 16th May, 1948).

¹[THE MADRAS DISTRICT POLICE ACT, 1859.]

ACT No. XXIV OF 1859.

[6th September, 1859.]

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to make the Police-force throughout the Madras Presidency a more efficient instrument² * * * * * for the prevention and detection of crime, and to re-organize the Police-force³ * * * * *; It is enacted as follows:—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

“Magistrate.”

the word “Magistrate” shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate:

“Superior Police.”

⁴[the expression “superior police” shall mean the Inspector-General of Police, Deputy Inspectors-General of Police, District Superintendents of Police, Assistant Superintendents of Police and Deputy Superintendents of Police ;

¹ Short title given by the Amending Act, 1901 (11 of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 4 and Sch. II, to be in force in the whole of the Madras Presidency except the Scheduled Districts. As to employment in the city of Madras of Police-officers appointed under this Act, see the Madras Police Act, 1888 (Mad. Act 3 of 1888), s. 16. The Madras District Police (Amendment) Act, 1865 (Mad. Act 5 of 1865), and ss. 3 and 4 of the Towns Nuisances Act, 1889 (Mad. Act 3 of 1889), are to be read with, and taken as part of this Act.

It has been extended under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to the taluqs of Bhadrachalam and Rakapilli—see Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, 1879, Pt. I, p. 630.

It has been declared under s. 3 (a) of the same Act to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 869; and in the Dutcharti and Guditeru Muthas of the Godavari Agency—see Fort St. George Gazette, 1930, Pt. I, p. 553.

The Act is in force in the Nugur taluk of East Godavari District by virtue of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (1 of 1909), s. 2 (1).

The Act ceased to be in force in that area of the Madras Presidency which was transferred to Orissa—see the Orissa Laws Regulation, 1936 (1 of 1936), s. 3.

As to power of the Central Government to create a special police district (notwithstanding anything in this Act) and to extend to every part thereof, the powers and jurisdiction of members of a police force belonging to any part of the Provinces of India, see the Police Act, 1888 (3 of 1888).

² The words “at the disposal of the Magistrate” rep. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936).

³ The words “and to improve the condition of the village-police” rep. by the Madras Hereditary Village-offices Act, 1895 (Mad. Act. 3 of 1895), except as to the Scheduled Districts.

⁴ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 3, for the definition of “subordinate” which read: “the word ‘subordinate’ as applied to Police-functionaries, shall mean District Superintendents and their Assistants and Deputies”.

"Subordinate Police." the expression "subordinate police" shall mean all police officers of and below the rank of an Inspector]:

¹[the word "Police" shall include all persons appointed under this Act]:

"General Police District." the expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended:

"Property." the word "property" shall include any "[moveable property], money or valuable security:

* * * * *

"Person". the word "person" shall include company or corporation:

"month." the word "month" shall mean calendar month:

"Cattle." the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2. [Repeal and amendment of certain Acts.] Rep. by the Repealing Act, 1870 (XIV of 1870).

3. [Jurisdiction of officers appointed under Mad. Reg. XI of 1816.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Superintendence vested in the State Government.

4. The Superintendence of the Police throughout the General Police District shall vest in, and be exercised by, the ⁴[State Government], and, except as authorized by ⁵[it] under the provisions of this Act, no person, officer or Court shall be empowered to * * * * * supersede or control any police-functionary, any Regulation, Act or usage to the contrary notwithstanding.

Inspector-General of Police, etc.

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector-General of Police for the Presidency of Madras, and in such ⁷[Superior Police Officers] as to the "[State Government] shall seem fit * * * * * .

Powers of Police, etc.

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police-authorities shall be vested in the Police-authorities appointed under this Act: Provided always that no Police functionary so appointed shall possess or exercise any judicial or revenue authority.

¹ Subs. by the Madras Hereditary Village-offices Act, 1895 (Mad. Act 3 of 1895), for the original definition.

² Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 3, for "chattel".

³ The clauses relating to "Number" and "Gender" rep. by the Second Repealing and Amending Act, 1914 (17 of 1914).

⁴ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Governor in Council".

⁵ Subs. by the A. O. 1937 for "him".

⁶ The word "appoint" rep. by the A. O. 1937.

The appointment of Police-functionaries is now regulated by s. 241 (1) (b) of the G. of I. Act, 1935 (26 Geo. 5, Ch. 2).

⁷ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 4, for "subordinates".

⁸ The words "and who shall receive such salary as the Governor General of India in Council shall allow" rep. by the Decentralization Act, 1914 (4 of 1914), and the words "who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority" rep. by the A. O. 1937.

7. The Inspector-General of Police shall be appointed a Justice of the Peace ; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the ¹[State Government]. The ¹[State Government] may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as ²[it] may deem proper ; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Inspector-General to be Justice of the Peace. His powers.

District Superintendent may be Magistrate. His powers.

8. The entire Police-establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police-force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the ¹[State Government] ³* * *. ⁴[The pay and all other conditions of service of officers of the Subordinate Police shall, subject to the provisions of this Act, be such as may be determined by the ⁵[State] Government.]

Constitution of force.

9. The Inspector-General may from time to time, subject to the approval of the ¹[State Government], frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof ; their inspection ; the description of arms, accoutrements and other necessities to be furnished to them ; to the collecting and communicating intelligence and information ; and all such other orders and regulations relative to the said Police-force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Inspector-General to control force and make rules.

⁶[10. Subject to such rules as the ⁷[State] Government may, from time to time, make under this Act, the Inspector-General, Deputy-Inspectors-General and District Superintendents of Police may at any time dismiss, suspend or reduce to a lower post, or time scale, or to a lower stage in time scale, any officer of the Subordinate Police whom they shall think remiss or negligent in the discharge of his duty or

Dismissal, suspension, or reduction of officers of the Subordinate Police.

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Governor in Council".

² Subs. by the A. O. 1937 for "he".

³ The words "subject to the control of the Governor General of India in Council" rep. by the A. O. 1937. The words "subject to the control" had been subs. by the Decentralization Act, 1914 (4 of 1914), for "with the sanction".

⁴ Ins. by the A. O. 1937 Cf. s. 243 of the G. of I Act, 1935 (26 Geo. 5, Ch. 2),

⁵ Subs. by the A. O. 1950 for "Provincial".

⁶ Subs. by the A. O. 1937 for the original section as amended by the Madras District Police and Towns Nuisances Acts Amendment Act, 1909 (Mad. Act 3 of 1909), and the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936).

otherwise unfit for the same and may order the recovery from the pay of any such Police-officer of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders.]

Police-officers
to receive
certificates
of office.

11. Every person ¹[appointed as an officer of the Subordinate Police] shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police-force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

12. [*Police Superannuation Fund.*] Rep. by the Repealing Act, 1874 (XVI of 1874).

Additional
Police-officers
employed at
cost of indi-
viduals.

13. It shall be lawful for the ²[State Government] if ³[it] shall think fit, on the application of any person showing the necessity thereof, to ⁴[appoint] any additional number of Police-officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the ⁵[Inspector-General] ⁶[or Deputy Inspector-General] or District Superintendent and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such ⁷[appointment] shall have been made, on giving one month's notice in writing to the Inspector-General ⁸[or Deputy Inspector-General] or District Superintendent, to require that the officers so appointed shall be discontinued: such person shall be relieved from the charge of such additional force from the expiration of such notice.

Additional
force in neigh-
bourhood of
railway and
other works.

14. Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police-force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector-General, with the consent of the ⁹[State Government], to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the treasurer or other officer having the control or

¹ Subs. by the A. O. 1937 for "so appointed".

² The original words "Inspector-General of Police or any District Superintendent" have been successively amended by Mad. Act 21 of 1936, A. O. 1937 and A. O. 1950 to read as above.

³ Subs. by the A. O. 1937 for "they".

⁴ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), for "depute".

⁵ Subs. by the A. O. 1937 for "said Inspector-General".

⁶ Ins. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 6.

⁷ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), for "deputation".

⁸ Subs. by the A. O. 1950, for "Provincial Government" which had been subs. by the A. O. 1937, for "Governor in Council".

custody of the funds of any Company carrying on such works, for the payment of the extra force so rendered necessary as aforesaid.

15. '[All sums of money payable under the two last preceding sections] shall be recoverable by suit in any competent Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Payment for support of additional Police-force.

16. When it shall appear that any ²[unlawful assembly or riot or disturbance of the peace] has taken place or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police-officer may require to act as special Police-officers for such time and in such manner as he shall deem necessary ; and it shall be the duty of such Magistrate at once to comply with such applications.

Special Police officers.

17. Every special Police-officer so appointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary officers of Police. "[He shall receive a certificate in such form as the '[State Government] may determine, under the signature of the Magistrate who appointed him.]

Powers of special Police-officers.

18. If any person, being appointed a special Police-officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

Punishment for refusal to serve.

19. No Police-officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent ; ⁵[or unless he shall have given to his superior officer two months' notice in writing of his intention to do so]. Nor shall any such Police-officer engage

Police-officers not to resign without leave or notice nor to take other employment.

¹ Subs. by the A. O. 1937 for "All moneys paid in respect of such additional force as is mentioned in the two last preceding sections shall be paid into a fund to be called "The General Police Fund", and shall be applied to the maintenance of the Police-force under such orders as the Governor in Council may pass ; and all sums of money payable under those sections". See, however, para. 4 of the India and Burma (Transitory Provisions) Order, 1937, which had the effect of continuing the General Police Fund up to the 1st April, 1939.

² Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 7, for "tumult, riot or outrage".

³ Ins. by s. 8, *ibid.*

⁴ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

⁵ These words shall be deemed to have been rep. so long as the Police (Resignation of Office) Ordinance, 1942 (11 of 1942) remains in force—see s. 2 and Sch. of that Ordinance.

in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Unlawful
assumption
of Police
functions,
personation
of Police, etc.

20. From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police-officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements, and appointments, and other necessities which may have been supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police-force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police-officer, or any dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police-officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

Duties of
Police-
officers.

21. Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police-officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to collect and communicate intelligence affecting the public peace ; and promptly to obey and execute all orders and warrants lawfully issued to him.

22 to 43. [*Offences for which Police-officers may arrest without warrant : procedure on arrest : rules regarding bail and recognizances : remands : power to enter drinking-shops, etc. : inspection of weights and measures : prohibition to receive complaints of petty offences : powers to inform and prosecute provisions regarding execution of warrants and service of summonses : Police-officers not to use threats or promises : obligation to render assistance to Police-officers.*] Rep. by Act XVII of 1862.

Powers of
the Police,
etc. on the
occasion of a
fire.

¹[42. On the occasion of a fire, any Police-officer above the rank of constable, or any member of the Madras Fire Services above the rank of fireman, may—

- (a) remove or order the removal of any persons who by their presence, interfere with or impede the operations for extinguishing the fire or for saving life or property ;
- (b) close any street or passage in or near which any fire is burning ;

¹ Ss. 42 and 43 ins. by the Madras City Police and District Police (Amendment) Act, 1947 (Mad. 8 of 1947), s. 3.

- (c) by himself or those acting under his orders, break into or through, or pull down, or use for the passage of hoses or other appliances, any premises for the purpose of extinguishing the fire, doing as little damage as possible ;
- (d) cause the mains and pipes of any area to be shut off so as to give greater pressure of water in the place where the fire has occurred ;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible ; and
- (f) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of the Madras Fire Services or of any fire-brigade or by Police-officers or their assistants in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire. But nothing in this section shall exempt any Police-officer or any member of the Madras Fire Services or of any fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

43. Whoever gives or causes to be given to any fire-brigade or to any member thereof or to any member of the Madras Fire Services, whether by means of a street fire-alarm, statement, message or otherwise, any alarm of fire which he knows to be false, shall be liable on conviction to fine which may extend to fifty rupees. Penalty for false alarm of fire.

Whoever is convicted under this section, after having been previously convicted either under this section or under section 62-A of the Madras City Police Act, 1888, shall be liable to simple imprisonment for a period which may extend to six months and shall also be liable to fine.]

Mad. III of 1898.

44. Every Police-officer who shall be guilty of any violation of duty or ¹[wilful breach or neglect of any rule or regulation or lawful order made by competent authority], or who shall cease to perform the duties of his office without leave, ²[or without having given two months' notice as provided by this enactment.] or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate as hereinbefore provided, or who shall

Penalties for neglect of duty, etc.

¹ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 9, for "wilful breach of any lawful orders and regulations not punishable under section 10 of this Act".

² These words shall be deemed to have been rep. so long as the Police (Resignation of Office) Ordinance, 1942 (11 of 1942) remains in force—see s. 2 and Sch. of that Ordinance.

offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both.

Penalty for receiving unauthorized fees, etc.

45. Any Police officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector-General or other officer acting under his order to collect or receive shall, on conviction before a Magistrate, be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labour, not exceeding six months, or both.

Penalty for extortion, etc.

46. Any Police-officer who shall directly or indirectly extort, exact, seek or obtain any bribe or unauthorized reward or consideration, by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labour not exceeding twelve months, or both: Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Committal by Magistrate of serious cases.

Penalty for offences against Police-officer.

47. If any person shall assault or resist any Police-officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police-officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or both.

48. [*Penalty for certain offences within limits of towns. Power to arrest without warrant. Slaughtering cattle, furious riding, etc.*] Rep. by the Town Nuisances Act, 1889 (Mad. Act III of 1889).

49. [*Regulation of public processions, etc., and of carriages and persons at places of public resort. Regulation of use of Music in streets.*] Rep. by Mad. Act V of 1896.

Enquiry into charges against certain Police-officers.

50. ¹[Any charge against a Police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.]

¹ Subs. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 10, for the original section which reads. "In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict: Provided always that such charges against Police-officers above the rank of a private shall only be adjudicated on by European functionaries, and that village-watchers alone shall be liable to conviction by heads of villages".

51. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided always that no person shall be punished twice for the same offence.

Liability to prosecution for higher penalties.

Provido.

52. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the ¹[moveable property] of the offender by warrant of the Magistrate² * * * *.

Levy of fines.

53. All actions and prosecutions against any person, which may be lawfully brought for ³[anything done or intended to be done under the provisions of this Act, or under the provisions of any other law for the time being in force conferring powers on the police], shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the Superintendent or other superior officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant; and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action.

Limitation of action.

Notice.

Recovery by plaintiff.

Costs.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Bar to action.

54. When any action, prosecution or proceeding shall be brought against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine:

Plea that act was done under warrant.

Decree for defendant, Proof of signature.

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Saving of remedy against issuer of warrant.

¹ Subs. by s. 11 of the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), for "goods and chattels".

² The words "in manner provided by Act II of 1839" rep. by the Repealing Act, 1874 (16 of 1874).

³ The original words were: "anything done or intended to be done, under the provisions of this Act, or under the general Police-powers hereby given". They were amended first by the Madras District Police (Amendment) Act, 1936 (Mad. 21 of 1936), s. 12, and then by the Madras City Police and District Police (Amendment) Act, 1947 (Mad. 8 of 1947), s. 3, to read as above.

Power of
State
Government
to extend
certain pro-
visions of Act
to any town.

¹[54-A. (1) The ²[State Government] may, by notification in the ³[Official Gazette], extend to any town all or any of the provisions of the Madras City Police Act, 1888, mentioned in the Schedule and may declare such extension to be subject to such modifications as they think fit.

(2) The ²[State Government] may, by notification in the ³[Official Gazette], cancel or modify any such notification as is referred to in sub-section (1).]

Operation of
Act.

55. This Act shall take effect in any and every such district as the ¹[State Government] shall appoint by notification published in the Official Gazette.

SCHEDULE.

[See section 54-A (1).]

Definitions of "imprisonment", "Gaming", "Instrument of gaming", "common gaming house" and "conviction" in section 1, sections 23, 24, 26, 28, 33, 48, 50, ²* 63, 64, 65 and 66, clauses (iii), (iv), (v), (vi), (vii), (viii), (x), (xiii), (xiv), (xv), (xvi), (xvii), (xviii) and (xx) of section 71 and sections 73, 74, 75, 77, 78, 79 and 80.

FORM A:

(See section 11.)

A. B. has been appointed a member of the Police-force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police-officer.

[THE SOCIETIES REGISTRATION ACT, 1860.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Societies formed by memorandum of association and registration.
2. Memorandum of association.

¹ Ins. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 13.

² See footnote 4 on p. 201, *supra*.

³ Subs. by the A. O. 1937 for "Fort St. George Gazette".

⁴ See footnote 8 on p. 200, *supra*.

⁵ Ins. by the Madras District Police (Amendment) Act, 1936 (Mad. Act 21 of 1936), s. 14.

The original Schedule relating to the repeal and amendment of previous laws was rep. by the Repealing Act, 1870 (14 of 1870).

⁶ The figures "61" rep. by the Madras City Police and District Police (Amendment) Act, 1947 (Mad. 8 of 1947), s. 3.

⁷ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

3. Registration.
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19. Inspection of documents.
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ACT NO. XXI OF 1860.

[21st May, 1860.]

An Act for the Registration of Literary, Scientific and Charitable Societies.¹

WHEREAS it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful

¹ The Act (with the exception of the first four sections) is based on the Literary and Scientific Institutions Act, 1854 (17 & 18 Vict., c. 112), ss. 20 et seq.

knowledge. '[the diffusion of political education] or for charitable purposes; It is enacted as follows:—

Societies formed by memorandum of association and registration.

1. Any seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association and filing the same with the Registrar of Joint-stock Companies * * * form themselves into a society under this Act.

Memorandum of association.

2. The memorandum of association shall contain the following things (that is to say)—

the name of the society:

the objects of the society:

the names, addresses, and occupations of the governors, council, directors, committee or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

It has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by s. 3 of the Laws Local Extent Act, 1874 (15 of 1874).

It has been extended to the New Provinces and Merged States by Act 59 of 1949.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri	See Gazette of India, 1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 302.
The Scheduled Districts in Ganjam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
Assam (except the North Lushái Hills)	Ditto 1897, Pt. I, p. 299.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumaon and Garhwál	Ditto 1876, Pt. I, p. 606.
Ajmer and Merwara	Ditto 1878, Pt. I, p. 380.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

It has been amended in its application to Bombay by Bombay Act 2 of 1912 and in its application to C. P. and Berar Act 3 of 1940.

¹ These words were added by the Societies Registration (Amendment) Act, 1927 (22 of 1927).

² The words and figures "under Act 19 of 1857" rep. by the Repealing Act, 1874 (16 of 1874). See now the Indian Companies Act, 1913 (7 of 1913), s. 288

3. Upon such memorandum and certified copy being filed, the registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the registrar for every such registration a fee of fifty rupees, or such smaller fee as ¹[the State Government] may, from time to time, direct; and all fees so paid shall be accounted for to ²[the State Government].

Registration.
Fees.

4. Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or, if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies of the names, addresses and occupations of the governors, council, directors, committee or other governing body then entrusted with the management of the affairs of the society.

Annual list
of managing
body to be
filed.

5. The property, moveable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

Property of
society how
vested.

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

Suits by and
against
societ s.

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

7. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceedings shall be continued in the name of or against the successor of such person.

Suits not to
abate.

8. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, moveable or immovable, or against the body of such person or officer, but against the property of the society.

Enforcement
of judgment
against
society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

¹ Subs. by the A. O. 1950 for "the Provincial Government" which had been subs. by the A. O. 1937 for "the Governor General of India in Council".

² Subs. by the A. O. 1950 for "the Provincial Government" which had been subs. by the A. O. 1937 for "Govt.".

Recovery of
penalty
accruing
under
bye-law.

9. Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

Members
liable to be
sued as
strangers.

10. Any member who may be in arrear of a subscription which, according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury or destruction of property in the manner hereinbefore provided.

Recovery by
successful de-
fendant of
costs adjudg-
ed.

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

Members
guilty of
offences
punishable as
strangers.

11. Any member of the society who shall steal, purloin or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence.

Societies
enabled to
alter extend
or abridge
their pur-
poses.

12. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report and may convene a special meeting for the consideration thereof according to the regulations of the society :

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate ; and the Court shall make such order in the matter as it shall deem requisite :

Provision for dissolution of societies and adjustment of their affairs.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose :

Assent required.

Provided that "[whenever any Government] is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved "[without the consent of the Government of the "[State] of registration].

Government consent.

14. If upon the dissolution of any society registered under this Act there shall remain after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or, in default thereof, by such Court as aforesaid : Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-stock Company.

Upon a dissolution no member to receive profit.

Clause not to apply to Joint-stock Companies. Member defined.

15. For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations ; but in all proceedings under this Act no person shall be entitled to vote or to be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

Disqualified members.

16. The governing body of the society shall be the governors, council, directors, committee, trustees or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

Governing body defined.

17. Any company or society established for a literary, scientific or charitable purpose, and registered under ¹Act XLIII of 1850, or any such society established and constituted previously to the passing of this Act but not registered under the said ⁴Act XLIII of 1850, may

Registration of societies formed before Act.

¹ Subs. by the A. O. 1937 for " whenever the Govt. ".

² Subs. by the A. O. 1937 for " without the consent of Govt. ".

³ Subs. by the A. O. 1950 for " Province ".

⁴ Rep. by the Indian Companies Act, 1866 (10 of 1866), s. 219.

Government Officers' Indemnity. [1860 : Act XXXIV.]

Assent
required.

at any time hereafter be registered as a society under this Act ; subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

In the case of a company or society registered under ¹Act XLIII of 1850, the directors shall be deemed to be such governing body.

In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

Such societies
to file memo-
randum, etc.,
with Regis-
trar of Joint-
stock Com-
panies.

18. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies² * * a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

Inspection of
documents.

19. Any person may inspect all documents filed with the registrar under this Act on payment of a fee of one rupee for each inspection, and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract ; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

Certified
copies.

To what
societies Act
applies.

20. The following societies may be registered under this Act :—
charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge,³ [the diffusion of political education], the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of painting and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

⁴[THE GOVERNMENT OFFICERS' INDEMNITY ACT,
1860.]

ACT NO. XXXIV OF 1860.

[2nd August, 1860.]

¹ Rep. by the Indian Companies Act, 1866 (10 of 1866), s. 219.

² The words and figures "under Act 19 of 1857," rep. by the Repealing Act, 1874 (16 of 1874). See now the Indian Companies Act, 1913 (7 of 1913), s. 238.

³ Ins. by the Societies Registration (Amendment) Act, 1927 (22 of 1927).

⁴ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances ; and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes ; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the tenth day of May, 1857, in respect of the said fines, penalties, assessments and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments and contributions, and the said acts ; It is enacted as follows :—

1. All fines, penalties, assessments and contributions imposed since the tenth day of May, 1857, in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government, or shall have been or shall be ratified by the executive Government ; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments and contributions, and levying the same ; and no suit or proceeding shall be commenced or prosecuted in respect thereof :

Indemnity in respect of fines, penalties, etc. imposed since 10th May, 1857

Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment or contribution not already levied.

Proviso.

2. All acts done since the tenth day of May, 1857, in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government or which shall have been or shall be ratified by the executive Government, are hereby confirmed and made valid ; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

Indemnity for certain acts done since 10th May, 1857.

The Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm and Pargana Dhálbhūm and the Kolhán in the District of Singhbhūm

See Gazette of India, 1881, Pt. I, p. 504.

The Scheduled portion of the Mirzápur District

Ditto 1879, Pt. I, p. 383.

Jaunsar Báwar

Ditto 1879, Pt. I, p. 383.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Taráí of the Province of Agra. *See Gazette of India, 1876, Pt. I, p. 505.*

THE INDIAN PENAL CODE.

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205. False personation for purpose of act or proceeding in suit or prosecution.
206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.
207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.
208. Fraudulently suffering decree for sum not due.
209. Dishonestly making false claim in Court.
210. Fraudulently obtaining decree for sum not due.
211. False charge of offence made with intent to injure.
212. Harboursing offender—
if a capital offence;
if punishable with transportation for life, or with imprisonment.
213. Taking gift, etc., to screen an offender from punishment—
if a capital offence;
if punishable with transportation for life, or with imprisonment.

SECTIONS.

214. Offering gift or restoration of property in consideration of screening offender—
if a capital offence ;
if punishable with transportation for life, or with imprisonment.
215. Taking gift to help to recover stolen property, etc.
216. Harboursing offender who has escaped from custody or whose apprehension has been ordered—
if a capital offence ;
if punishable with transportation for life, or with imprisonment.
- 216A. Penalty for harbouring robbers or dacoits.
- 216B. [*Repealed.*]
217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.
219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.
220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.
221. Intentional omission to apprehend on the part of public servant bound to apprehend.
222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.
223. Escape from confinement or custody negligently suffered by public servant.
224. Resistance or obstruction by a person to his lawful apprehension.
225. Resistance or obstruction to lawful apprehension of another person.
- 225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for.
- 225B. Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.
- 226 Unlawful return from transportation.
227. Violation of condition of remission of punishment.
228. Intentional insult or interruption to public servant sitting in judicial proceeding.
229. Personation of a juror or assessor.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

SECTIONS.

230. "Coin" defined.

Indian coin.

231. Counterfeiting coin.

232. Counterfeiting Indian coin.

233. Making or selling instrument for counterfeiting coin.

234. Making or selling instrument for counterfeiting Indian coin.

235. Possession of instrument or material for the purpose of using the same for counterfeiting coin; if Indian coin.

236. Abetting in India the counterfeiting out of India of coin.

237. Import or export of counterfeit coin.

238. Import or export of counterfeits of the Indian coin.

239. Delivery of coin, possessed with knowledge that it is counterfeit.

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.

241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.

242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.

245. Unlawfully taking coining instrument from mint.

246. Fraudulently or dishonestly diminishing weight or altering composition of coin.

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.

248. Altering appearance of coin with intent that it shall pass as coin of different description.

249. Altering appearance of Indian coin, with intent that it shall pass as coin of different description.

250. Delivery of coin, possessed with knowledge that it is altered.

251. Delivery of Indian coin, possessed with knowledge that it is altered.

252. Possession of coin by person who knew it to be altered when he became possessed thereof.

SECTIONS.

- 253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.
- 254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.
- 255. Counterfeiting Government stamp.
- 256. Having possession of instrument or material for counterfeiting Government stamp.
- 257. Making or selling instrument for counterfeiting Government stamp.
- 258. Sale of counterfeit Government stamp.
- 259. Having possession of counterfeit Government stamp.
- 260. Using as genuine a Government stamp known to be counterfeit.
- 261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.
- 262. Using Government stamp known to have been before used.
- 263. Erasure of mark denoting that stamp has been used.
- 263A. Prohibition of fictitious stamps.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

- 264. Fraudulent use of false instrument for weighing.
- 265. Fraudulent use of false weight or measure.
- 266. Being in possession of false weight or measure.
- 267. Making or selling false weight or measure.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

- 268. Public nuisance.
- 269. Negligent act likely to spread infection of disease dangerous to life.
- 270. Malignant act likely to spread infection of disease dangerous to life.

SECTIONS.

- 271. Disobedience to quarantine rule.
- 272. Adulteration of food or drink intended for sale.
- 273. Sale of noxious food or drink.
- 274. Adulteration of drugs.
- 275. Sale of adulterated drugs.
- 276. Sale of drug as a different drug or preparation.
- 277. Fouling water or public spring or reservoir.
- 278. Making atmosphere noxious to health.
- 279. Rash driving or riding on a public way.
- 280. Rash navigation of vessel.
- 281. Exhibition of false light, mark or buoy.
- 282. Conveying person by water for hire in unsafe or overloaded vessel.
- 283. Danger or obstruction in public way or line of navigation.
- 284. Negligent conduct with respect to poisonous substance.
- 285. Negligent conduct with respect to fire or combustible matter.
- 286. Negligent conduct with respect to explosive substance.
- 287. Negligent conduct with respect to machinery.
- 288. Negligent conduct with respect to pulling down or repairing buildings.
- 289. Negligent conduct with respect to animal.
- 290. Punishment for public nuisance in cases not otherwise provided for.
- 291. Continuance of nuisance after injunction to discontinue.
- 292. Sale, etc., of obscene books, etc.
- 293. Sale, etc., of obscene objects to young person.
- 294. Obscene acts and songs.
- 294A. Keeping lottery-office.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

- 295. Injuring or defiling place of worship, with intent to insult the religion of any class.
- 295A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- 296. Disturbing religious assembly.
- 297. Trespassing on burial-places, etc.
- 298. Uttering words, etc., with deliberate intent to wound religious feelings.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

SECTIONS.

299. Culpable homicide.

300. Murder.

When culpable homicide is not murder.

301. Culpable homicide by causing death of person other than person whose death was intended.

302. Punishment for murder.

303. Punishment for murder by life-convict.

304. Punishment for culpable homicide not amounting to murder.

304A. Causing death by negligence.

305. Abetment of suicide of child or insane person.

306. Abetment of suicide.

307. Attempt to murder.

Attempts by life-convicts.

308. Attempt to commit culpable homicide.

309. Attempt to commit suicide.

310. Thug.

311. Punishment.

Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

312. Causing miscarriage.

313. Causing miscarriage without woman's consent.

314. Death caused by act done with intent to cause miscarriage.
If act done without woman's consent.

315. Act done with intent to prevent child being born alive or to cause it to die after birth.

316. Causing death of quick unborn child by act amounting to culpable homicide.

317. Exposure and abandonment of child under twelve years, by parent or person having care of it.

318. Concealment of birth by secret disposal of dead body.

Of Hurt.

319. Hurt.

320. Grievous hurt.

SECTIONS.

- 321. Voluntarily causing hurt.
- 322. Voluntarily causing grievous hurt.
- 323. Punishment for voluntarily causing hurt.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 325. Punishment for voluntarily causing grievous hurt.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.
- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
- 330. Voluntarily causing hurt to extort confession, or to compel restoration of property.
- 331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 334. Voluntarily causing hurt on provocation.
- 335. Voluntarily causing grievous hurt on provocation.
- 336. Act endangering life or personal safety of others.
- 337. Causing hurt by act endangering life or personal safety of others.
- 338. Causing grievous hurt by act endangering life or personal safety of others.

Of Wrongful Restraint and Wrongful Confinement.

- 339. Wrongful restraint.
- 340. Wrongful confinement.
- 341. Punishment for wrongful restraint.
- 342. Punishment for wrongful confinement.
- 343. Wrongful confinement for three or more days.
- 344. Wrongful confinement for ten or more days.
- 345. Wrongful confinement of person for whose liberation writ has been issued.
- 346. Wrongful confinement in secret.
- 347. Wrongful confinement to extort property, or constrain to illegal act.

SECTIONS.

348. Wrongful confinement to extort confession, or compel restoration of property.

Of Criminal Force and Assault.

349. Force.
350. Criminal force.
351. Assault.
352. Punishment for assault or criminal force otherwise than on grave provocation.
353. Assault or criminal force to deter public servant from discharge of his duty.
354. Assault or criminal force to woman with intent to outrage her modesty.
355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.
356. Assault or criminal force in attempt to commit theft of property carried by a person.
357. Assault or criminal force in attempt wrongfully to confine a person.
358. Assault or criminal force on grave provocation.

Of Kidnapping, Abduction, Slavery and Forced Labour.

359. Kidnapping.
360. Kidnapping from the States.
361. Kidnapping from lawful guardianship.
362. Abduction.
363. Punishment for kidnapping.
364. Kidnapping or abducting in order to murder.
365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
366. Kidnapping, abducting or inducing woman to compel her marriage, etc.
366A. Procuration of minor girl.
366B. Importation of girl from foreign country.
367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
368. Wrongfully concealing or keeping in confinement kidnapped or abducted person.
369. Kidnapping or abducting child under ten years with intent to steal from its person.
370. Buying or disposing of any person as a slave.
371. Habitual dealing in slaves.

SECTIONS.

- 372. Selling minor for purposes of prostitution, etc.
- 373. Buying minor for purposes of prostitution, etc.
- 374. Unlawful compulsory labour.

Of Rape.

- 375. Rape.
- 376. Punishment for rape.

Of Unnatural Offences.

- 377. Unnatural offences.

CHAPTER XVII.**OF OFFENCES AGAINST PROPERTY.***Of Theft.*

- 378. Theft.
- 379. Punishment for theft.
- 380. Theft in dwelling-house, etc.
- 381. Theft by clerk or servant of property in possession of master.
- 382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.

Of Extortion.

- 383. Extortion.
- 384. Punishment for extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death or grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 388. Extortion by threat of accusation of an offence punishable with death or transportation, etc.
- 389. Putting person in fear of accusation of offence, in order to commit extortion.

Of Robbery and Dacoity.

- 390. Robbery.
 - When theft is robbery.
 - When extortion is robbery.
- 391. Dacoity.

SECTIONS.

- 392. Punishment for robbery.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.
- 395. Punishment for dacoity.
- 396. Dacoity with murder.
- 397. Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398. Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399. Making preparation to commit dacoity.
- 400. Punishment for belonging to gang of dacoits.
- 401. Punishment for belonging to gang of thieves.
- 402. Assembling for purpose of committing dacoity.

Of Criminal Misappropriation of Property.

- 403. Dishonest misappropriation of property.
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death.

Of Criminal Breach of Trust.

- 405. Criminal breach of trust.
- 406. Punishment for criminal breach of trust.
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant.
- 409. Criminal breach of trust by public servant, or by banker, merchant or agent.

Of the Receiving of Stolen Property.

- 410. Stolen property.
- 411. Dishonestly receiving stolen property.
- 412. Dishonestly receiving property stolen in the commission of a dacoity.
- 413. Habitually dealing in stolen property.
- 414. Assisting in concealment of stolen property.

Of Cheating.

- 415. Cheating.
- 416. Cheating by personation.
- 417. Punishment for cheating.

SECTIONS.

418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

419. Punishment for cheating by personation.

420. Cheating and dishonesty inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property.

421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Dishonestly or fraudulently preventing debt being available for creditors.

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

424. Dishonest or fraudulent removal or concealment of property.

Of Mischief.

425. Mischief.

426. Punishment for mischief.

427. Mischief causing damage to the amount of fifty rupees.

428. Mischief by killing or maiming animal of the value of ten rupees.

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.

430. Mischief by injury to works of irrigation or by wrongfully diverting water.

431. Mischief by injury to public road, bridge, river or channel.

432. Mischief by causing inundation or obstruction to public drainage attended with damage.

433. Mischief by destroying, moving or rendering less useful a lighthouse or sea-mark.

434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.

435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

436. Mischief by fire or explosive substance with intent to destroy house, etc.

437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.

438. Punishment for the mischief described in section 437 committed by fire or explosive substance.

439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

440. Mischief committed after preparation made for causing death or hurt.

SECTIONS.

Of Criminal Trespass.

- 441. Criminal trespass.
- 442. House-trespass.
- 443. Lurking house-trespass.
- 444. Lurking house-trespass by night.
- 445. House-breaking.
- 446. House-breaking by night.
- 447. Punishment for criminal trespass.
- 448. Punishment for house-trespass.
- 449. House-trespass in order to commit offence punishable with death.
- 450. House-trespass in order to commit offence punishable with transportation for life.
- 451. House-trespass in order to commit offence punishable with imprisonment.
- 452. House-trespass after preparation for hurt, assault or wrongful restraint.
- 453. Punishment for lurking house-trespass or house-breaking.
- 454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456. Punishment for lurking house-trespass or house-breaking by night.
- 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458. Lurking house-trespass or house-breaking by night, after preparation for hurt, assault or wrongful restraint.
- 459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
- 461. Dishonestly breaking open receptacle containing property.
- 462. Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

SECTIONS.

- 463. Forgery.
- 464. Making a false document.
- 465. Punishment for forgery.
- 466. Forgery of record of Court or of public register, etc.
- 467. Forgery of valuable security, will, etc.
- 468. Forgery for purpose of cheating.
- 469. Forgery for purpose of harming reputation.
- 470. Forged document.
- 471. Using as genuine a forged document.
- 472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.
- 474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.
- 475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
- 476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A. Falsification of accounts.

Of Trade, Property and Other Marks.

- 478. Trade mark.
- 479. Property mark.
- 480. Using a false trade mark.
- 481. Using a false property mark.
- 482. Punishment for using a false trade mark or property mark.
- 483. Counterfeiting a trade mark or property mark used by another.
- 484. Counterfeiting a mark used by a public servant.
- 485. Making or possession of any instrument for counterfeiting a trade mark or property mark.

SECTIONS.

- 486. Selling goods marked with a counterfeit trade mark or property mark.
- 487. Making a false mark upon any receptacle containing goods.
- 488. Punishment for making use of any such false mark.
- 489. Tampering with property mark with intent to cause injury.

Of Currency-Notes and Bank-Notes.

- 489A. Counterfeiting currency-notes or bank-notes.
- 489B. Using as genuine forged or counterfeit currency-notes or bank-notes.
- 489C. Possession of forged or counterfeit currency-notes or bank-notes.
- 489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.
- 489E. Making or using documents resembling currency-notes or bank-notes.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

- 490. [*Repealed.*]
- 491. Breach of contract to attend on and supply wants of helpless person.
- 492. [*Repealed.*]

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

- 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.
- 494. Marrying again during life-time of husband or wife.
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
- 496. Marriage ceremony fraudulently gone through without lawful marriage.
- 497. Adultery.
- 498. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI.

OF DEFAMATION.

SECTIONS.

499. Defamation.

Imputation of truth which public good requires to be made or published.

Public conduct of public servants.

Conduct of any person touching any public question.

Publication of reports of proceedings of Courts.

Merits of case decided in Court, or conduct of witnesses and others concerned.

Merits of public performance.

Censure passed in good faith by person having lawful authority over another.

Accusation preferred in good faith to authorised person.

Imputation made in good faith by person for protection of his or other's interests.

Caution intended for good of person to whom conveyed or for public good.

500. Punishment for defamation.

501. Printing or engraving matter known to be defamatory.

502. Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

503. Criminal intimidation.

504. Intentional insult with intent to provoke breach of the peace.

505. Statements conducing to public mischief.

506. Punishment for criminal intimidation.

If threat be to cause death or grievous hurt, etc.

507. Criminal intimidation by an anonymous communication.

508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.

509. Word, gesture or act intended to insult the modesty of a woman.

510. Misconduct in public by a drunken person.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

SECTIONS.

511. Punishment for attempting to commit offences punishable with transportation or imprisonment.

¹ACT NO. XLV OF 1860.

[6th October, 1860.]

CHAPTER I.

INTRODUCTION.

WHEREAS it is expedient to provide a general Penal Code for ²[the ~~Preamble.~~ whole of India except Part B States]. It is enacted as follows:—

1. This Act shall be called the Indian Penal Code, and shall ³[ex- Title and extent of operation of the Code. tend to the whole of India except Part B States].

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within ⁴[the States] ⁵* * * Punishment of offences committed within the States.

¹ The Indian Penal Code has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in—

Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 2;

Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 and Sch.

Khondmals District, by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and

Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been declared under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely the United Provinces Tarai Districts—see Gazette of India, 1876, Pt. I, p. 505; the Districts of Hazaribagh, Lohardaga [now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44] and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum—see Gazette of India, 1881, Pt. I, p. 504.

It has been extended under s. 5 of the same Act to the Lushai Hills—see Gazette of India, 1898, Pt. II, p. 345.

² Subs. by the A. O. 1950 for “the Provinces of India” which has been subs. by the A. O. 1948 for “British India”.

³ The original words have successively been amended by Act 12 of 1891, A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁴ The original words “the said territories” have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁵ The words and figures “on or after the said first day of May 1861” rep. by the Amending Act, 1891 (12 of 1891).

(Chapter I.—Introduction. Chapter II.—General Explanations.)

Punishment
of offences
committed
beyond, but
which by
law may be
tried within,
the States.

3. Any person liable, by any ¹[Indian Law], to be tried for an offence committed beyond ²[the States] shall be dealt with according to the provisions of this Code for any act committed beyond ³[the States] in the same manner as if such act had been committed within ³[the States].

Extension of
Code to
extra-territo-
rial offences.

⁴[4. The provisions of this Code apply also to any offence committed by—

⁵[(1) any citizen of India in any place without and beyond India;

(2) any person on any ship or aircraft registered in India wherever it may be.]

Explanation.—In this section the word “offence” includes every act committed outside ⁶[the States] which, if committed in ⁶[the States], would be punishable under this Code.

Illustrations.

(a) A, ⁷[who is ⁸[a citizen of India]] commits a murder in Uganda. He can be tried and convicted of murder in any place in ⁶[the States] in which he may be found.

* * * * *

Certain Laws
not to be
affected by
this Act.

¹⁰[5. Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law.]

CHAPTER II.

GENERAL EXPLANATIONS.

Definitions
in the Code
to be under-
stood subject
to exceptions.

6. Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the—

¹ Subs. by the A. O. 1937 for “law passed by the Governor General of India in Council”.

² The original words “the limits of the said territories” have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

³ The original words “the said territories” have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁴ Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 2, for the original s. 4.

⁵ Subs. by the A. O. 1950 for clauses (1) to (4).

⁶ Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

⁷ Subs. by the A. O. 1948 for “a coolie, who is a Native Indian subject”.

⁸ Subs. by the A. O. 1950 for “a British subject of Indian domicile”.

⁹ Illustrations (b), (c) and (d) rep. by the A. O. 1950.

¹⁰ Subs. by the A. O. 1950 for the original s. 5 as amended by Acts 14 of 1870, 10 of 1927, 35 of 1934, A. O. 1937 and A. O. 1948.

(Chapter II.—General Explanations.)

chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations.

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation. Sense of expression once explained.

8. The pronoun "he" and its derivatives are used of any person, whether male or female. Gender.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number. Number.

10. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age. "Man". "Woman".

11. The word "person" includes any Company or Association, or body of persons, whether incorporated or not. "Person".

12. The word "public" includes any class of the public or any community. "Public".

13. [Queen].—Rep. by the A. O. 1950.

¹[14. The words 'servant of Government' denote any officer or servant continued, appointed or employed in India by or under the authority of Government.] Servant of Government.

15. [Definition of "British India".] Rep. by the A. O. 1937.

16. [Definition of "Government of India".] Rep. by the A. O. 1937.

²[17. The word "Government" denotes the Central Government or the Government of a Part A State.] "Government".

³[18. The word 'State' denotes a Part A State or a Part C State and the word 'States' denotes all the territories for the time being comprised within Part A States and Part C States.] "State" and "States".

¹ Subs. by the A. O. 1950 for the original s. 14 as amended by A. O. 1937 and A. O. 1948.

² Subs. by the A. O. 1950 for the original section.

³ Ins. by the A. O. 1950. The original s. 18 was rep. by the A. O. 1937.

(Chapter II.—General Explanations.)

“Judge”.

19. The word “Judge” denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Collector exercising jurisdiction in a suit under Act X of 1859 is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

(c) A member of a panchayat which has power, under ‘Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

“Court of Justice”.

20. The words “Court of Justice” denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A panchayat acting under ‘Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

“Public servant”.

21. The words “public servant” denote a person falling under any of the descriptions hereinafter following namely:—

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Second.—Every Commissioned Officer in the Military ³[Naval or Air] Forces ⁴[of India].

Third.—Every Judge ;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

¹ Rep. by the Madras Civil Courts Act, 1873 (3 of 1873).

² Clause *First* was rep. by the A. O. 1950.

³ Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for “or Naval”.

⁴ The original words “of the Queen while serving under the Government of India, or any Government” have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

(Chapter II.—General Explanations.)

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of ¹[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of ¹[the Government], or to make any survey, assessment or contract on behalf of ¹[the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of ¹[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of ¹[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of ¹[the Government], and every officer in the service or pay of ¹[the Government] or remunerated by fees or commission for the performance of any public duty ;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

²[*Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.]

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

¹ Subs. by the A. O. 1950 for “the Crown” which had been subs. by the A. O. 1937 for “Govt.”.

² Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

(Chapter II.—General Explanations.)

¹[*Explanation 3.*—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

“Moveable property”.

22. The words “moveable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

“Wrongful gain”.

23. “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss”.

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully.

Losing wrongfully.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

“Dishonestly”.

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that this “dishonestly”.

“Fraudulently”.

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

“Reason to believe”.

26. A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise.

Property in possession of wife, clerk or servant.

27. When property is in the possession of a person’s wife, clerk or servant, on account of that person, it is in that person’s possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk, or servant, is a clerk or servant, within the meaning of this section.

“Counterfeit”.

28. A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

²[*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be

¹ Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

² Subs. by the Metal Tokens Act, 1889 (1 of 1889), s. 9, for the original Explanations.

(Chapter II.—General Explanations.)

deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

29. The word “document” denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. “Document”.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-Attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words “pay to the holder” or words to that effect had been written over the signature.

30. The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right. “Valuable security”.

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a “valuable security”.

31. The words “a will” denote any testamentary document.

“A will”.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions. Words referring to acts include illegal omissions.

33. The word “act” denotes as well a series of acts as a single act: “Act”. The word “omission” denotes as well a series of omissions as a single omission. “Omission”.

(Chapter II.—General Explanations.)

Acts done by several persons in furtherance of common intention.

¹[34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Persons concerned in criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

¹Subs. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 1, for the original section.

(Chapter II.—General Explanations.)

39. A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act: yet, if he knew that he was likely to cause death, he has caused death voluntarily.

¹[40. Except in the ²[chapters] and sections mentioned in clauses “Offence”. 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.]

In chapter IV, ³[Chapter VA] and in the following sections, namely sections, ⁴[64, 65, 66, ⁵[67], 71], 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “offence” denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

41. A “special law” is a law applicable to a particular subject. “Special law”.

42. A “local law” is a law applicable only to a particular part of ⁶[the territories comprised in the ⁷[States]]. “Local law”.

43. The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be “legally bound to do” whatever it is illegal in him to omit. “Illegal”. “Legally bound to do”.

44. The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. “Injury”.

45. The word “life” denotes the life of a human being, unless the contrary appears from the context. “Life”.

¹ Subs. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 2, for the original s. 40.

² Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for “chapter”.

³ Ins. by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 2.

⁴ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 1.

⁵ Ins. by the Indian Criminal Law Amendment Act, 1885 (10 of 1886), s. 21(1).

⁶ Subs. by the A. O. 1948 for “British India”.

⁷ Subs. by the A. O. 1950 for “Provinces”.

(Chapter II.—General Explanations. Chapter III.—Of Punishments.)

- “Death”. 46. The word “death” denotes the death of a human being unless the contrary appears from the context.
- “Animal”. 47. The word “animal” denotes any living creature, other than a human being.
- “Vessel”. 48. The word “vessel” denotes anything made for the conveyance by water of human beings or of property.
- “Year”. 49. Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.
- “Month”.
- “Section”. 50. The word “section” denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.
- “Oath”. 51. The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.
- “Good faith”. 52. Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.
- “Harbour”. ¹[52A. Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

CHAPTER III.

OF PUNISHMENTS.

- “Punishments.” 53. The punishments to which offenders are liable under the provisions of this Code are,—

First,—Death ;

Secondly,—Transportation ;

2* * * *

Fourthly,—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

Fifthly,—Forfeiture of property ;

Sixthly,—Fine.

¹ Ins. by the Indian Penal Code (Amendment) Act, 1942 (8 of 1942), s. 2.

² Clause *Thirdly* was rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (with effect from 6-4-1949).

(Chapter III.—Of Punishments.)

54. In every case in which sentence of death shall have been passed ¹[the appropriate Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code. Commutation of sentence of death.

55. In every case in which sentence of transportation for life shall have been passed, ²[the appropriate Government] may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years. Commutation of sentence of transportation for life.

³[55A. In sections fifty-four and fifty-five the expression “appropriate Government” means,— Definition of “appropriate Government”.

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.]

56. [*Sentence of Europeans and Americans to penal servitude. Proviso as to sentence for term exceeding ten years but not for life.*] *Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (with effect from 6-4-1949).*

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years. Fractions of terms of punishment.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment. Offenders sentenced to transportation how dealt with until transported.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment. Transportation instead of imprisonment.

¹ Subs. by the A. O. 1950 for “the Central Government or the Provincial Government of the Province within which the offender shall have been sentenced”. The words in italics were subs. by the A. O. 1937 for “the Govt. of India or the Govt. of the place”.

² Subs. by the A. O. 1950 for “the Provincial Government of the Province within which the offender shall have been sentenced”. The words in italics were subs. by the A. O. 1937 for “the G. of I. or the Govt. of the place”.

³ Subs. by the A. O. 1950 for s. 55A which had been ins. by the A. O. 1937.

(Chapter III.—Of Punishments.)

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61. [*Sentence of forfeiture of property.*] Rep. by the Indian Code Amendment) Act, 1921 (XVI of 1921), s. 4.

62. [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.*] Rep. by the Indian Penal Code (Amendment) Act, 1921 (XVI of 1921), s. 4.

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment for non-payment of fine.

64. ¹[In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable ²[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for non-payment of fine.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Imprisonment for non-payment of fine, when offence punishable with fine only.

67. If the offence be punishable with fine only, ³[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty

¹ Subs. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 2, for "in every case in which an offender is sentenced to a fine".

² Ins. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s. 21 (2).

³ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 3.

(Chapter III.—Of Punishments.)

rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Imprisonment to terminate on payment of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Termination of imprisonment on payment of proportional part of fine.

Illustration.

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonments, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Fine leviable within six years, or during imprisonment.

Death not to discharge property from liability.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence made up of several offences.

¹[Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.]

¹ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 4.

(Chapter III.—Of Punishments.)

Illustrations.

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Solitary confinement.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months :

a time not exceeding two months if the term of imprisonment shall exceed six months and ¹[shall not exceed one] year :

a time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Enhanced punishment for certain offences under

²[75. Whoever, having been convicted,—

(a) by a Court in ³[the States], of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

¹ Subs. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 5, for "be less than a".

² Subs. by the Indian Penal Code Amendment Act, 1910 (3 of 1910) for the original section.

³ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter III.—Of Punishments. Chapter IV.—General Exceptions.)

(b) by a Court or tribunal ¹[in any Indian State acting under the general or special authority of the Central Government or of the [Crown Representative], of an offence which would, if committed in ²[the States], have been punishable under those Chapters of this Code with like imprisonment for the like term,

Chapter XII
or Chapter
XVII after
previous
conviction.

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.]

CHAPTER IV.

GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Act done by a
person bound,
or by mistake
of fact believ-
ing himself
bound, by
law.

Illustrations.

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act of Judge
when acting
judicially.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done
pursuant to
the judgment
or order of
Court.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Act done by
a person
justified, or
by mistake of
fact believing
himself
justified,
by law.

¹ Subs. by the A. O. 1937 for "in the territories of any Native Prince or State in India acting under the general or special authority of the G. G. in C. or of any L. G."

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter IV.—General Exceptions.)

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in
doing a law-
ful act.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to
cause harm,
but done
without
criminal
intent, and
to prevent
other harm.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child
under seven
years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child
above seven
and under
twelve
of immature
understand-
ing.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a
person of
unsound
mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

(Chapter IV.—General Exceptions.)

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Act of a person incapable of judgment by reason of intoxication caused against his will.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

87. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Act not intended to cause death, done by consent in good faith for person's benefit.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided—

Act done in good faith for benefit of child or insane person, by or by consent of guardian.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Provisos.

(Chapter IV.—General Exceptions.)

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt; or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception: or

Consent of insane person.

if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child.

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Exclusion of acts which are offences independently of harm caused.

91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the Act.

Act done in good faith for benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit: Provided—

(Chapter IV.—General Exceptions.)

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death ;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity ;

Thirdly.—That this exception shall extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A not intending Z's death but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person. Communication made in good faith.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint. Act to which a person is compelled by threats.

(Chapter IV.—General Exceptions.)

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law ; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing
slight harm.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Things done
in private
defence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of
private
defence of
the body and
of property.

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body ;

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Right of
private
defence
against the
act of a
person
of unsound
mind, etc.

98. When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations.

(a) Z, under the influence of madness, attempts to kill A ; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

(Chapter IV.—General Exceptions.)

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Acts against which there is no right of private defence.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

When the right of private defence of the body extends to causing death.

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault ;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An assault with the intention of gratifying unnatural lust ;

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to

(Chapter IV.—General Exceptions.)

apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed ; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property ;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

(Chapter IV.—General Exceptions. Chapter V.—Of Abetment.)

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Right of private defence against deadly assault when there is risk of harm to innocent person.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

107. A person abets the doing of a thing, who—

Abetment of a thing.

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Abettor.

(Chapter V.—Of Abetment.)

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby, causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

(Chapter V.—Of Abetment.)

Illustration.

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

¹[108A. A person abets an offence within the meaning of this Code who, in ²[the States], abets the commission of any act without and beyond ²[the States] which would constitute an offence if committed in ²[the States.]]

Abetment in the states of offences outside the states.

Illustration.

A, in ²[the States] instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if person abetted does act with different intention from that of abettor.

¹ This section was added by s. 3 of the Indian Penal Code Amendment Act, 1898 (4 of 1898).

² Subs. by the A. O. 1950, for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter V.—Of Abetment.)

Liability of abettor when one act abetted and different act done. **111.** When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it :

Proviso. Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustration.

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting, the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done. **112.** If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor. **113.** When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect, from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided, he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed. **114.** Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

(Chapter V.—Of Abetment.)

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

Abetment of offence punishable with death or transportation for life—
if offence not committed ;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

if act causing harm be done in consequence.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence ; or with such fine as is provided for that offence, or with both ;

Abetment of offence punishable with imprisonment—if offence be not committed ;

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

if abettor or person abetted be a public servant whose duty it is to prevent offence.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting commission of offence by the public or by more than ten persons.

(Chapter V.—Of Abetment.)

Illustration.

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

Concealing
design to
commit
offence
punishable
with death
or trans-
portation for
life—

118. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

if offence be
committed ;

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years ; and in either case shall also be liable to fine.

if offence be
not com-
mitted.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

Public
servant
concealing
design to
commit
offence
which
it is his duty
to prevent—

119. Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be
committed ;

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;

if offence be
punishable
with death,
etc ;

or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years ;

if offence be
not com-
mitted.

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

(Chapter V.—Of Abetment. Chapter V A.—Criminal Conspiracy.)

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

Concealing design to commit offence punishable with imprisonment—

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

if offence be committed;

if offence be not committed.

¹[CHAPTER VA.

CRIMINAL CONSPIRACY.

120A. When two or more persons agree to do, or cause to be done,—

Definition of criminal conspiracy.

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

Punishment of criminal conspiracy.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

¹ Ins. by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 3.

(Chapter VI.—Of Offences against the State.)

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

Waging or attempting to wage war or abetting waging of war against the Government of India.

121. Whoever wages war against the ¹[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, ²[and shall also be liable to fine].

Illustrations.

(a) A joins an insurrection against the ¹[Government of India]. A has committed the offence defined in this section.

₃ * * * * *

Conspiracy to commit offences punishable by section 121.

⁴[**121A.** Whoever within or without ⁵[the States] conspires to commit any of the offences punishable by section 121, ⁶* * * or conspires to overawe, by means of criminal force or the show of criminal force ⁷[the Central Government or any ⁸[State] Government ⁹* * *], shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years, ¹⁰[and shall also be liable to fine].

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.]

Collecting arms, etc., with intention of waging war against the Government of India.

122. Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the ¹[Government of India], shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, ²[and shall also be liable to fine].

Concealing with intent to facilitate design to wage war.

123. Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against ¹[Government of India], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall

¹ Subs. by the A. O. 1950 for "Queen".

² Subs. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 2, for "and shall forfeit all his property".

³ Illustration (b) rep. by the A. O. 1950.

⁴ S. 121A ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 4.

⁵ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

⁶ The words "or to deprive the Queen of the sovereignty of the Provinces or of any part thereof" as amended by the A. O. 1937 and A. O. 1948 for the original words, were rep. by the A. O. 1950.

⁷ Subs. by the A. O. 1937 for "the G. of I. or any L. G.".

⁸ Subs. by the A. O. 1950 for "Provincial".

⁹ The words "or the Govt. of Burma" rep. by the A. O. 1948.

¹⁰ Ins. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 3.

(Chapter VI.—Of Offences against the State.)

be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

124. Whoever, with the intention of inducing or compelling the ^{Assaulting President, Governor, etc. with intent to compel or restrain the exercise of any lawful power.}
¹[President] of India, or Governor of any ²[State], ³* * * ⁴* * *
⁵* * * to exercise or refrain from exercising in any manner any of the lawful powers of such ⁶[President or Governor],

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such ⁶[President or Governor],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

⁷[124A. Whoever by words, either spoken or written, or by signs, ^{Sedition.}
or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, ⁸* * * the Government established by law in ⁹[the States],
¹⁰* * * shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.]

¹ Subs. by the A. O. 1950 for “Governor General”.

² Subs. by the A. O. 1950 for “Province” which had been subs. by the A. O. 1937 for “Presidency”.

³ The words “or a Lieutenant-Governor” rep. by the A. O. 1937.

⁴ The words “or a Member of the Council of the Governor General of India” rep. by the A. O. 1948.

⁵ The words “or of the Council of any Presidency” rep. by the A. O. 1937.

⁶ The original words “Governor General, Governor, Lieutenant-Governor or Member of Council” have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁷ Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 4, for the original s. 124A which had been ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 5.

⁸ The words “Her Majesty or” were rep. by the A. O. 1950. The words “or the Crown Representative” ins. after the word “Majesty” by the A. O. 1937 were rep. by the A. O. 1948.

⁹ Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

¹⁰ The words “or British Burma” ins. by the A. O. 1937. were rep. by the A. O. 1948.

(Chapter VI.—Of Offences against the State.)

Waging war
against any
Asiatic
Power in
alliance with
the Govern-
ment.

125. Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the ¹[Government] or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

Committing
depredation
on territories
of Power at
peace with
the Govern-
ment.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the ¹[Government], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

Receiving
property
taken by
war or
depredation
mentioned in
sections 125
and 126.

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Public
servant
voluntarily
allowing
prisoner of
State or war
to escape.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public
servant
negligently
suffering
such prisoner
to escape.

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape
of, rescuing
or harbouring
such prisoner.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in ²[the States], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

¹ Subs. by the A. O. 1950 for "Queen".

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter VII.—Of Offences relating to the Army, Navy and Air Force.)

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY, ¹[NAVY AND AIR FORCE].

131. Whoever abets the committing of mutiny by an officer, soldier, ²[sailor or airman], in the Army, ³[Navy or Air Force] of the ⁴[Government of India] or attempts to seduce any such officer, soldier, ²[sailor or airman] from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.

⁵[*Explanation.*—In this section the words “officer”, ⁶[“soldier”, ⁷[“sailor”] and “airman”] include any person subject to the ⁸[Army Act, the Indian Army Act, 1911, ⁷[the Naval Discipline Act, * * * Indian Navy (Discipline) Act, 1934], ¹⁰[the Air Force Act or the Indian Air Force Act, 1932], as the case may be].]

VIII of 1911.
XXXIV of 1934.
XIV of 1932.

132. Whoever abets the committing of mutiny by an officer, soldier, ²[sailor or airman], in the Army, ³[Navy or Air Force] of the ⁴[Government of India], shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

133. Whoever abets an assault by an officer, soldier, ²[sailor or airman], in the Army ³[Navy or Air Force] of the ⁴[Government of India], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

A betment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.

¹ Subs. by the Repealing and Amending Act, 1927, (10 of 1927), s. 2 and Sch. I, for “and Navy”.

² Subs., *ibid.*, for “or sailor”.

³ Subs., *ibid.*, for “or Navy”.

⁴ Subs. by the A. O. 1950 for “Queen”.

⁵ Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 6.

⁶ Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for “and ‘soldier’”.

⁷ Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

⁸ Subs. by s. 2 and Sch., *ibid.*, for “Articles of War, for the better government of Her Majesty’s Army, or to the Articles of War contained in Act No. 5 of 1869”.

⁹ The words “or that Act as modified by” rep. by the A. O. 1950.

¹⁰ Subs. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch., for “or the Air Force Act”.

(Chapter VII.—Of Offences relating to the Army, Navy and Air Force.)

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of desertion of soldier, sailor or airman.

135. Whoever abets the desertion of any officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], has deserted, harbours such officer, soldier, ¹[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army, ²[Navy or Air Force] of the ³[Government of India] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by soldier, sailor or airman.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force], of the ³[Government of India], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

138A. [Application of foregoing sections to the Indian Marine Service.] Rep. by the Amending Act, 1934 (XXXV of 1934), s. 2 and Sch.

¹ Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "or sailor".

² Subs. by s. 2 and Sch. I, *ibid*, for "or Navy".

³ Subs. by the A. O. 1950 for "Queen".

(Chapter VII.—Of Offences relating to Army, Navy or Air Force.

Chapter VIII.—Of Offences against the Public Tranquility.)

VIII of 1911¹

XXXIV of 1934.

XIV of 1932.

139. No person subject to ¹[the Army Act], the Indian Army Act, 1911, the Naval Discipline Act ²[³* * * the Indian Navy (Discipline) Act, 1934] ⁴[the Air Force Act or the Indian Air Force Act, 1932] is subject to punishment under this Code for any of the offences defined in this Chapter.

Persons subject to certain Acts.

140. Whoever, not being a soldier, ⁵[sailor or airman] in the Military, ⁶[Naval or Air] service of the ⁷[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier ⁵[sailor or airman] with the intention that it may be believed that he is such a soldier, ⁵[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Wearing garb or carrying token used by soldier, sailor or airman.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILITY.

141. An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—

Unlawful assembly.

First.—To overawe by criminal force, or show of criminal force, ⁸[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant ; or

Second.—To resist the execution of any law, or of any legal process ; or

Third.—To commit any mischief or criminal trespass, or other offence ; or

Fourth.—By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right ; or

¹ Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I for “any articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy”.

² Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

³ The words “or that Act as modified by” rep. by the A. O. 1950.

⁴ Subs. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch., for “or the Air Force Act”.

⁵ Ins. by Act 10 of 1927, s. 2 and Sch. I.

⁶ Subs., *ibid.*, for “or Naval”.

⁷ Subs. by the A. O. 1950 for “Queen”.

⁸ Subs. by the A. O. 1950 for “the Central or any Provincial Government or legislature” which had been subs. by the A. O. 1937 for “the Legislative or Executive G. of I., or the Govt. of any Presidency, or any Lieutenant-Governor”.

(Chapter VIII.—Of Offences against the Public Tranquility.)

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being
member of
unlawful
assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining
unlawful
assembly
armed with
deadly
weapon.

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or
continuing
in unlawful
assembly,
knowing it
has been
commanded
to disperse.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment
for rioting.

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting,
armed with
deadly
weapon.

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every
member
of unlawful
assembly
guilty
of offence
committed
in prosecution
of common
object.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

(Chapter VIII.—Of Offences against the Public Tranquility.)

150. Whoever hires or engages, or employs, or promotes, or con- Hiring, or
nives at the hiring, engagement or employment of any person to join hiring, of
or become a member of any unlawful assembly, shall be punishable persons to
as a member of such unlawful assembly, and for any offence which join unlawful
may be committed by any such person as a member of such unlawful assembly.
assembly in pursuance of such hiring, engagement or employment,
in the same manner as if he had been a member of such unlawful
assembly, or himself had committed such offence.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Knowingly
joining or
continuing
in assembly
of five or
more persons
after it has
been com-
manded to
disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

Assaulting of
obstructing
public
servant when
suppressing
riot, etc.

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Wantonly
giving provo-
cation with
intent to
cause riot—
if rioting be
committed :

if not
committed.

¹[**153A.** Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of ²[the citizens of India], shall be punished with imprisonment which may extend to two years, or with fine or with both.

Promoting
enmity
between
classes.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of ²[the citizens of India].]

¹ S. 153A was added by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 5.

² Subs. by the A. O. 1950 for "Her Majesty's subjects".

(Chapter VIII.—Of Offences against the Public Tranquility.)

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part

158. Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in

(Chapter VIII.—Of Offences against the Public Tranquility. Chapter IX.—Of Offences by or relating to Public Servants.)

section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both, in an unlawful assembly or riot ;

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. or to go armed.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray.” Affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both. Punishment for committing affray.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with ¹[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Public servant taking gratification other than legal remuneration in respect of an official act.

Explanations.—“Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

¹ Subs. by the A. O. 1950 for “the Central or any Provincial Government or Legislature” which had been subs. by the A. O. 1937, for “the Legislative or Executive G. of I., or with the Govt. of any Presidency, or with any Lieutenant-Governor”.

(Chapter VIII.—Of Offences against the Public Tranquility.)

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part

158. Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in

(Chapter VIII.—Of Offences against the Public Tranquility. Chapter IX.—Of Offences by or relating to Public Servants.)

section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both, in an unlawful assembly or riot ;

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. or to go armed.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray.” Affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both. Punishment for committing affray.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with ¹[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Public servant taking gratification other than legal remuneration in respect of an official act.

Explanations.—“Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

¹ Subs. by the A. O. 1950 for “the Central or any Provincial Government or Legislature” which had been subs. by the A. O. 1937, for “the Legislative or Executive G. of I., or with the Govt. of any Presidency, or with any Lieutenant-Governor”.

(Chapter IX.—Of Offences by or relating to Public Servants.)

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of ¹[Counsel in a Foreign State], accepts a lakh of rupees from the Minister of ²[that State]. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the ³[Government of India]. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Taking gratification, in order, by corrupt or illegal means, to influence public servant.

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with ⁴[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking gratification, for exercise of personal influence with public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with ⁴[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

¹ Subs. by the A. O. 1950 for “Resident at the Court of a subsidiary Power”.

² Subs. by the A. O. 1950 for “that Power”.

³ Subs. by the A. O. 1950 for “British Government”.

⁴ See footnote 1 on pre-page.

(Chapter IX.—Of Offences by or relating to Public Servants.)

Illustration.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust,—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of offences defined in section 162 or 163.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

Public servant obtaining valuable thing, without consideration,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

from person concerned in proceeding or business transacted by such public servant.

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely

Public servant disobeying law, with

(Chapter IX.—Of Offences by or relating to Public Servants.)

intent to
cause injury
to any
person.

that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree-pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public
servant
framing an
incorrect
document
with intent
to cause
injury.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public
servant
unlawfully
engaging in
trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public
servant
unlawfully
buying or
bidding for
property.

169. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both ; and the property, if purchased, shall be confiscated.

Personating
a public
servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Wearing garb
or carrying
token used
by public
servant with
fraudulent
intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(Chapter IXA.—Of Offences relating to Elections.)

¹[CHAPTER IXA.

OF OFFENCES RELATING TO ELECTIONS.

171A. For the purposes of this Chapter—

(a) “candidate” means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;

“Candidate”
“Electoral right”
defined.

(b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171B. (1) Whoever—

Bribery.

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right, or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue
influence at
elections.

(2) Without prejudice to the generality of the provisions of subsection (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

¹ Chapter IXA ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

(Chapter IXA.—Of Offences relating to Elections.)

- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation
at elections.

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment
for bribery.

171E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only,

Explanation.—‘Treating’ means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment
for undue
influence or
personation
at an elec-
tion.

171F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

False state-
ment in
connection
with an
election.

171G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal
payments in
connection
with an
election.

171H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

(Chapter IXA.—Of Offences relating to Elections. Chapter X.—Of contempts of the lawful authority of Public Servants.)

171L. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.] Failure to keep election accounts.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; Absconding to avoid service of summons or other proceeding.

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, Preventing service of summons or other proceeding, or preventing publication thereof.

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, Non-attendance in obedience to an order from public servant.

(Chapter X.—Of contempts of the lawful authority of Public Servants.)

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(a) A, being legally bound to appear before the ¹[High Court] at Calcutta in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before ²[District Judge], as a witness, in obedience to a summons issued by that ³[District Judge] intentionally omits to appear. A has committed the offence defined in this section.

Omission to produce document to public servant by person legally bound to produce it.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a ¹[District Court], intentionally omits to produce the same. A has committed the offence defined in this section.

Omission to give notice or information to public servant by person legally bound to give it.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees,

¹ Subs. by the A. O. 1950 for "Supreme Court".

² Subs. by the A. O. 1950 for "Zila Judge".

³ Subs. by the A. O. 1950 for "Zila Court".

(Chapter X.—Of contempts of the lawful authority of Public Servants.)

or with both ;

¶ of 1898.

¹[or, if the notice or information required to be given is required by an order passed under sub sub-section (1) or section 565 of the Code of Criminal Procedure, 1898, with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

Furnishing false information.

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(a) A, landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause 5, section VII, Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully misinforms the police-officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

³[*Explanation.*—In section 176 and in this section the word “offence” includes any act committed at any place out of “[the States], which, if committed in “[the States], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.]

178. Whoever refuses to bind himself by an oath ⁵[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing oath or affirmation when duly required by public servant to make it.

¹ Ins. by the Criminal Law Amendment Act, 1939 (22 of 1939), s. 2.

² Rep. by Act 17 of 1862.

³ Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894), s. 5.

⁴ Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

⁵ Ins. by the Indian Oaths Act, 1873 (10 of 1873), s. 15.

(Chapter X.—Of contempts of the lawful authority of Public Servants.)

Refusing to answer public servant authorised to question.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.

181. Whoever, being legally bound by an oath ¹[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath ¹[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information with intent to cause public servant to use his lawful power to the injury of another person.

²[**182.** Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

¹ Ins. by the Indian Oaths Act, 1873 (10 of 1873), s. 15.

² Subs. by the Indian Criminal Law Amendment Act, 1895 (3 of 1895), s. 1, for the original s. 182.

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(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.]

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Resistance to the taking of property by the lawful authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Obstructing sale of property offered for sale by authority of public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of public servant.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Obstructing public servant in discharge of public functions.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ;

Omission to assist public servant when bound by law to give assistance.

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished

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with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both,

Disobedience
to order duly
promulgated
by public
servant.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both :

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Threat of
injury to
public
servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of
injury to
induce person
to refrain
from
applying for
protection
to public
servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(Chapter. XI.—Of False Evidence and Offences against
Public Justice.)

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191. Whoever being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence. Giving false
evidence

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence". Fabricating
false
evidence.

Illustrations.

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

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(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search. A has fabricated false evidence.

Punishment
for false
evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial¹ * * is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or
fabricating
false
evidence
with intent
to procure
conviction
of capital
offence ;

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital² [by the laws for the time being in force in the³ [States]] shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

¹ The words "or before a Military Court of Request" were rep. by the Cantonments Act, 1889 (13 of 1889).

² Subs. by the A. O. 1948 for "by the law of British India or England" which had been subs. by the Indian Railways Act, 1890 (9 of 1890), s. 149, for "by this Code or the law of England".

³ Subs. by the A. O. 1950 for "Provinces".

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and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

if innocent person be thereby convicted and executed.

195. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which ¹[by the law for the time being in force in the ²[States]] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Issuing or signing false certificate.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true a certificate known to be false.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration knowing it to be false.

¹ Subs. by the A. O. 1948 for "by the Law of British India or England" which had been subs. by the Indian Railways Act, 1890 (Act of 1890), s. 149 for "by this Code or the law of England".

² Subs. by the A. O. 1950 for "Provinces".

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Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration with the meaning of sections 199 and 200.

Causing disappearance of evidence of offence, or giving false information to screen offender—

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence ;

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if punishable with transportation ;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

if punishable with less than ten years' imprisonment.

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Intentional omission to give information of offence by person bound to inform.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Giving false information respecting an offence committed.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[*Explanation.*—In sections 201 and 202 and in this section the word “offence” includes any act committed at any place out of ²[the States], which, if committed in ²[the States], would be punish-

¹ Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894), s. 7.

² Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

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able under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

False personation for purpose of act or proceeding in suit or prosecution.

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as forfeited or in execution.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property

Fraudulently suffering decrees for sum not due

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or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

Dishonestly
suffering the
claim in
Court.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice and claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently
obtaining
decree for
sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge
of offence
made with
intent to
injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring
offender—

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

if a capital
offence ;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ;

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and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

punishable
with trans-
portation for
life, or with
imprison-
ment.

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

¹["Offence" in this section includes any act committed at any place out of ²[the States], which, if committed in ²[the States], would be punishable under any of the following sections, namely 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ²[the States].]

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment.

Taking gift,
etc., to screen
an offender
from punish-
ment—

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if a capital
offence ;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

if punishable
with trans-
portation for
life, or with
imprison-
ment.

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

¹ Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1893), s. 7.

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

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Offering gift
or restora-
tion of pro-
perty in con-
sideration of
screening
offender—

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital
offence ;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if punishable
with trans-
portation for
life, or with
imprison-
ment.

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence. or with fine, or with both.

¹[*Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

[*Illustrations.*] *Rep. by the Code of Criminal Procedure, 1882 (X of 1882).*

Taking gift
to help to
recover
stolen pro-
perty, etc.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring
offender who
has escaped
from custody
or whose
apprehension
has been
ordered—

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody,

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

¹ Subs. by s. 6 of the Indian Penal Code Amendment Act, 1882 (8 of 1882) for the original Exception.

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if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence or with fine, or with both.

¹["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of ²[the States], which, if he had been guilty of it in ²[the States], would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in ²[the States], and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ²[the States].]

Exception.—The provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

³[216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without ²[the States].

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

216B. [Definition of "harbour" in sections 212, 216 and 216A.]
Rep. by the Indian Penal Code (Amendment) Act, 1942 (VIII of 1942), s. 3.

¹ Ins. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886). s. 23.

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

³ Ins. by the Indian Criminal Law Amendment Act, 1894 (3 of 1894) s. 8.

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Public Justice.)

Public
servant dis-
obeying
direction of
law with
intent to
save person
from punish-
ment or pro-
perty from
forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public ser-
vant framing
incorrect
record or
writing with
intent to
save person
from punish-
ment or pro-
perty from
forfeiture.

218. Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public
servant in
judicial pro-
ceeding
corruptly
making
report, etc.,
contrary to
law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment
for trial or
confinement
by person
having
authority
who knows
that he is
acting
contrary
to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement; or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional
omission to
apprehend
on the part
of public
servant
bound to
apprehend.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

(Chapter XI.—Of False Evidence and Offences against Public Justice.)

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence ¹[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows that is to say :—

Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life ²* * * or to transportation * * * or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years ¹[or if the person was lawfully committed to custody].

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence ¹[or lawfully committed to custody], negligently suffers such persons to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Escape from confinement or custody negligently suffered by public servant.

¹ Ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 8.

² The words "or penal servitude for life" were rep. by s. 2 of the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (with effect from 6-4-1949).

³ The words "or penal servitude" rep., *ibid.*

(Chapter XI.—Of False Evidence and Offences against
Public Justice.)

Resistance
or obstruc-
tion by a per-
son to his
lawful
apprehen-
sion.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or
obstruction
to lawful
apprehension
of another
person.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both ;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation,¹ * or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Omission to
apprehend,
or sufferance.

²[**225A.** Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person

¹The words "penal servitude" were rep. by s. 2 of the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (with effect from 6-4-1949).

²Ss. 225A and 225B were subs. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s. 24 (1), for s. 225A, which had been ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 9.

(Chapter XI.—Of False Evidence and Offences against Public Justice.)

in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

of escape,
on part of
public
servant, in
cases not
otherwise,
provided for.

- (a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine or with both; and
- (b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

Resistance
or obstruction
to lawful
apprehension,
or escape or
rescue in
cases not
otherwise
provided for.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Unlawful
return from
transporta-
tion.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of
condition of
remission of
punishment.

228. Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Intentional
insult or in-
terruption to
public
servant sit-
ting in judi-
cial proceed-
ing.

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personation
of a juror or
assessor.

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

“Coin”
defined.

230. ¹[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

Indian
coin.

²[Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal which had been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

Illustrations.

(a) Cowries are not coin.

(b) Lumps of unstamped copper, though used as money, are not coin.

(c) Medals are not coin, inasmuch as they are not intended to be used as money.

(d) The coin denominated as the Company's rupee is ³[Indian coin].

¹ [(e) The “Farukhabad” rupee, which was formerly used as money under the authority of the Government of India, is ⁴[Indian coin] although it is no longer so used.]

Counterfeit-
ing coin.

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeit-
ing Indian
coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting ³[Indian Coin], shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or
selling in-
strument for
counterfeit-
ing coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

¹ Subs. for the original paragraph by the Indian Penal Code Amendment Act, 1872 (19 of 1872).

² Subs. by the A.O. 1950 for the paragraph subs. by the Indian Penal Code Amendment Act, 1896 (6 of 1896) s. 1 (1), for the original paragraph and amended by the A. O. 1937.

³ Subs. by the A. O. 1950 for “the Queen's coin”.

⁴ Ins. by the Indian Penal Code Amendment Act, 1896 (6 of 1896), s. 1 (2).

⁵ Subs. by the A. O. 1950 for “Queen's coin”.

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

234. Whoever makes or mends, or performs any part of the process of making or mending or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Indian coin.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Possession of instrument or material for the purpose of using the same for counterfeiting coin :

and if the coin to be counterfeited is ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

if Indian coin.

236. Whoever, being within ²[the States], abets the counterfeiting of coin out of ²[the States] shall be punished in the same manner as if he abetted the counterfeiting of such coin within ²[the States].

Abetting in India the counterfeiting out of India of coin.

237. Whoever imports into ²[the States], or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeit coin.

238. Whoever imports into ²[the States], or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of ¹[Indian coin], shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Import or export counterfeits of the Indian coin.

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin possessed with knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin, which is a counterfeit of ¹[Indian coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of ¹[Indian coin],

Delivery of Indian coin, possessed with

¹ Subs. by the A. O. 1950 for "the Queen's coin".

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

knowledge
that it is
counterfeit.

fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of
coin as
genuine,
which, when
first pos-
sessed, the
deliverer
did not
know to be
counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustrations.

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another, utterer who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

Possession
of counterfeit
coin by per-
son who knew
it to be
counterfeit
when he
became pos-
sessed there-
of.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession
of Indian
coin by
person who
knew it to be
counterfeit
when he
became pos-
sessed
thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of ¹[Indian coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person
employed
in mint
causing coin
to be of
different
weight or
composition
from that
fixed by law.

244. Whoever, being employed in any mint lawfully established in ²[the States], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹ Subs. by the A. O. 1950 for "the Queen's coin".

² Subs. by the A. O. 1950 for "the Provinces." which had been subs. by the A. O. 1948 for "British India".

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

245. Whoever, without lawful authority, takes out of any mint, lawfully established in ¹[the States], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking coining instrument from mint.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of coin.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

247. Whoever fraudulently or dishonestly performs on ²[any Indian coin] any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of coin with intent that it shall pass as coin of different description.

249. Whoever performs on ²[any Indian coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of Indian coin with intent that it shall pass as coin of different description.

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin, possessed with knowledge that it is altered.

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Subs. by the A. O. 1950 for "any of the Queen's coin".

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

Delivery of
Indian coin
possessed
with
knowledge
that it is
altered.

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession
of coin by
person who
knew it to be
altered when
he became
possessed
thereof.

252. Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of
Indian coin
by person
who knew it
to be altered
when he
became
possessed
thereof.

253. Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of
coin as
genuine
which, when
first pos-
sessed, the
deliverer
did not know
to be
altered.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Counterfeit-
ing
Government
stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having
possession of
instrument
or material

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeit-

(Chapter XII.—Of Offences relating to Coin and Government Stamps.)

ing any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years. and shall also be liable to fine.

257. Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years; and shall also be liable to fine.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

261. Whoever fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

262. Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(Chapter XII.—Of Offences relating to Coin and Government Stamps. Chapter XIII.—Of Offences relating to Weights and Measures.)

Erasure of mark denoting that stamp has been used.

263. Whoever fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Prohibition of fictitious stamps.

¹[263A. (1) Whoever—

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp, shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word “Government” when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty’s dominions or in any foreign country.]

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

¹S. 263A ins. by the Indian Criminal Law Amendment Act, 1895 (3 of 1895), s. 2.

(Chapter XIII.—Of Offences relating to weights and measures.

Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with both.

Fraudulent use of false weight or measure.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weight or measure.

267. Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making, or selling false weight or measure.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

Public Nuisance.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Negligent act likely to spread infection of disease dangerous to life.

270. Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Malignant act likely to spread infection of disease dangerous to life.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

Disobedience
to quaran-
tine rule.

271. Whoever knowingly disobeys any rule made and promulgated '[by the ^{2*} * * * Government ^{3*} * * * for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either 'description for a term which may extend to six months, or with fine, or with both.

Adulteration
of food or
drink intend-
ed for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of
noxious food
or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Adulteration
of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of
adulterated
drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

¹ Subs. by the A. O. 1937 for "by the G. of I., or by any Govt."

² The words "Central or any Provincial" rep. by the A. O. 1950.

The words "or the Crown Representative" rep. by the A. O. 1948.

(Chapter XIV.—Of Offences affecting the Public Health, Safety,
Convenience, Decency and Morals.)

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of drug
as a different
drug or pre-
paration.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Fouling
water of
public
spring or
reservoir.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

Making
atmosphere
noxious to
health.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash
driving or
riding on a
public way.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash
navigation
of vessel.

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exhibition
of false
light, mark
or buoy.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Conveying
person by
water for
hire in un-
safe or over-
loaded vessel.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

Danger or
obstruction
in public
way or line
of naviga-
tion.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

Negligent
conduct with
respect to
poisonous
substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months; or with fine, which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
fire or com-
bustible
matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
explosive
substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
machinery.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
pulling down
or repairing
buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(Chapter XIV.—Of Offences affecting the Public Health, Safety,
Convenience, Decency and Morals.)

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
animal.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Punishment
for public
nuisance in
cases not
otherwise
provided for.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Continuance
of nuisance
after injunc-
tion to dis-
continue.

¹[292. Whoever—

Sale, etc., of
obscene
books, etc.

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section,

¹ Subs. for the original s. 292 by the Obscene Publications Act, 1925 (8 of 1925), s. 2.

(Chapter XIV.—Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals. Chapter XV.—Of Offences relating to Religion.)

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bonâ fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]

Sale, etc., of
obscene
objects to
young
person.

¹[293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

Obscene acts
and songs.

²[294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene songs, ballad or words.
in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

Keeping
lottery
office.

³[294A. Whoever keeps any office or place for the purpose of drawing any lottery ⁴[not being ⁵[a lottery organised by the Central Government or the Government of a Part A State or a Part B State] or a lottery authorised by the ⁶[State] Government] shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery shall be punished with fine which may extend to one thousand rupees.]

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

Injuring or
defiling place
of worship
with intent
to

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention

¹ Subs. by the Obscene Publications Act, 1925 (8 of 1925), s. 2, for the original s. 293.

² Subs. by the Indian Criminal Law Amendment Act, 1895 (3 of 1895), s. 3, for the original s. 294.

³ S. 294A ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 10.

⁴ Subs. by the A. O. 1937 for "not authorized by Govt."

⁵ Subs. by the A. O. 1950 for "a State lottery".

⁶ Subs. by the A. O. 1950 for "Provincial".

(Chapter XV.—Of Offences relating to Religion. Chapter XVI.—Of Offences affecting the Human Body.)

of thereby insulating the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of ²[citizens of India], by words, either spoken or written, or by visible representations insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

insult the religion of any class.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing religious assembly.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulated thereby,

Trespassing on burial places, etc.

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, etc. with deliberate intent to wound religious feelings.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury

Culpable homicide.

¹ Ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 2.

² Subs. by the A. O. 1950 for "His Majesty's subjects".

(Chapter XVI.—Of Offences affecting the Human Body.)

as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B or cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(a) A shoots Z with the intention of killing him. Z dies in consequence A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although

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the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

When
culpable
homicide
is not
murder.

The above exception is subject to the following provisos:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

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Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing death of person other than person whose death was intended.

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever, commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by life-convict.

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

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304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death ;

Punishment for culpable homicide not amounting to murder.

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death.

¹[**304A.** Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

Causing death by negligence.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide of child or insane person.

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of suicide.

307. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

Attempt to murder.

²[When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death.]

Attempts by life-convicts.

Illustrations.

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

¹ S. 304A ins. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 12.

² Ins. by s. 11, *ibid.*

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(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of ¹[the first paragraph of] this section.

(d) A, intending to murder Z, by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

Attempt to
commit
culpable
homicide.

308. Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt
to commit
suicide.

309. Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year ²[or with fine, or with both.]

Thug.

310. Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

Punishment.

311. Whoever is a thug, shall be punished with transportation for life, and shall also be liable to fine.

Of the Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

Causing mis-
carriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry, is within the meaning of this section.

¹ Ins. by the Amending Act, 1891 (12 of 1891), Sch. II.

² Subs. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 7, for "and shall also be liable to fine".

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313. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing miscarriage without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ;

Death caused by act done with intent to cause miscarriage.

and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned.

If act done without woman's consent.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Act done with intent to prevent child being born alive or to cause it to die after birth.

316. Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing death of quick unborn child by act amounting to culpable homicide.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die ; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of child under twelve years, by parent or person having care of it.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment of birth by secret disposal of dead body.

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Of Hurt.

Hurt. **319.** Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Grievous hurt. **320.** The following kinds of hurt only are designated as “grievous” :—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt. **321.** Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”.

Voluntarily causing grievous hurt. **322.** Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt. **323.** Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means. **324.** Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated

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substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

327. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

328. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, etc., with intent to commit an offence.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property of valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

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Voluntarily
causing hurt
to extort
confession,
or to compel
restoration
of property.

330. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

Voluntarily
causing
grievous
hurt to
extort
confession,
or to compel
restoration
of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily
causing hurt
to deter
public
servant from
his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily
causing
grievous
hurt to deter
public
servant from
his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Voluntarily causing hurt on provocation.

335. Whoever ¹[voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Voluntarily causing grievous hurt on provocation.

Explanation.—The last two sections are subject to the same provisos as Exception 1, section 300.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Act endangering life or personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Causing hurt by act endangering life or personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by act endangering life or personal safety of others.

Of Wrongful Restraint and Wrongful Confinement.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Wrongful restraint.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

¹ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 8.

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Wrongful
confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment
for wrongful
restraint.

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Punishment
for wrongful
confinement.

342. Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Wrongful
Confinement
for three or
more days.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful
confinement
for ten or
more days.

344. Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful
confinement
of person for
whose libera-
tion writ
has been
issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

Wrongful
confinement
in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful
confinement
to extort
property, or
constrain to
illegal act.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

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348. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Of Criminal Force and Assault.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

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(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling, A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending, or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

**Punishment
for assault or
criminal
force other-
wise than on
grave pro-
vocation.**

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

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Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force to deter public servant from discharge of his duty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force to woman with intent to outrage her modesty.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

356. Whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Assault or criminal force in attempt wrongfully to confine a person.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Assault or criminal force on grave provocation.

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Explanation.—The last section is subject to the same explanation as section 352.

Of Kidnapping, Abduction, Slavery and Forced Labour.

Kidnapping. **359.** Kidnapping is of two kinds: kidnapping from ¹[the States], and kidnapping from lawful guardianship.

Kidnapping from the states. **360.** Whoever conveys any person beyond the limits of ¹[the States] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from ¹[the States].

Kidnapping from lawful guardianship. **361.** Whoever takes or entices any minor under ²[sixteen] years of age if a male, or under ³[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction. **362.** Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping. **363.** Whoever kidnaps any person from ¹[the States] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder. **364.** Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

¹ Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

² Subs. by the Indian Penal Code and the Code of Criminal Procedure, (Amendment) Act, 1949 (42 of 1949), s. 2, for “fourteen”.

³ Subs., *ibid*, for “sixteen”.

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Illustrations.

(a) A kidnaps Z from ¹[the States], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting with intent secretly and wrongfully to confine person.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; ²[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

Kidnapping, abducting or inducing woman to compel her marriage, etc.

³[**366A.** Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

Procurement of minor girl.

³[**366B.** Whoever imports into ¹[the States] from any country outside India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

Importation of girl from foreign country.

and whoever with such intent or knowledge imports into ¹[the States] from ⁴[any Part B State] any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Ins. by the Indian Penal Code (Amendment) Act, 1923 (20 of 1923), s. 2.

³ Ins. by s. 3, *ibid.*

⁴ Subs. by the A. O. 1950 for "any State in India".

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Kidnapping
or abducting
in order to
subject
person
to grievous
hurt,
slavery,
etc.

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully
concealing or
keeping in
confinement,
kidnapped
or abducted
person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping
or abducting
child under
ten years
with intent
to steal from
its person.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or
disposing of
any person
as a slave.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual
dealing in
slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling
minor for
purposes of
prostitution,
etc.

372. Whoever sells, lets to hire, or otherwise disposes of any ¹[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

²[*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of

¹ Subs. by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 2, for "minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be". The word "eighteen" had been subs. for "sixteen" by the Indian Penal Code (Amendment) Act, 1924 (5 of 1924), s. 2.

² Ins. by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 3.

(Chapter XVI.—Of Offences affecting the Human Body.)

such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.]

373. Whoever buys, hires or otherwise obtains possession of any ^{Buying minor for purposes of prostitution, etc.} [person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

²[*Explanation I.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—‘Illicit intercourse’ has the same meaning as in section 372.]

374. Whoever unlawfully compels any person to labour against ^{Unlawful compulsory labour.} the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Rape.

375. A man is said to commit “rape” who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:— ^{Rape.}

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

¹ Subs. by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 2, for “minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be”. The word “eighteen” had been subs. for “sixteen” by the Indian Penal Code (Amendment) Act, 1924 (5 of 1924), s. 2.

² Ins. by s. 4, *ibid.*

(Chapter XVI.—Of Offences affecting the Human Body. XVII.—Of Offences against Property.)

Fifthly.—With or without her consent, when she is under ¹[sixteen] years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under ¹[fifteen] years of age, is not rape.

Punishment
for rape.

376. Whoever commits rape shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, ²[unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

Of Unnatural Offences.

Unnatural
offences.

377. Whoever volutarly has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII.

OF OFFENCES AGAINST PROPERTY.

Of Theft.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

¹ The original word "ten" has successively been amended by Acts 10 of 1891, 29 of 1925 and by the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949 (42 of 1949), s. 3, to read as above.

² Ins. by the Indian Penal Code (Amendment) Act, 1925 (29 of 1925), s. 3.

(Chapter XVII.—Of Offences against Property.)

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has served the tree in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(Chapter XVII.—Of Offences against Property.)

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment
or theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in
dwelling
house, etc.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by
clerk or
servant of
property in
possession of
master.

381. Whoever being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after
preparation
made for
causing
death, hurt
or restraint
in order to
the commit-
ting of the
theft.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(a) A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

(Chapter XVII.—Of Offences against Property.)

Illustrations.

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Putting person in fear of injury in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life. Extortion by threat of accusation of an offence punishable with death or transportation, etc.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and, if the offence be punishable under section 377 of this Code, may be punished with transportation for life. Putting person in fear of accusation of offence, in order to commit extortion.

(Chapter XVII.—Of Offences against Property.)

Of Robbery and Dacoity.

Robbery.

390. In all robbery there is either theft or extortion.When theft
is robbery.

Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extor-
tion is
robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

Punishment
for robbery.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to
commit
robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(Chapter XVII.—Of Offences against Property.)

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(Chapter XVII.—Of Offences against Property.)

Of Criminal Misappropriation of Property.

Dishonest
misappropriation of
property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) A and B, being joint owners of a house, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(a) A finds a rupee on the high-road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(Chapter XVII.—Of Offences against Property.)

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Dishonest misappropriation of property possessed by deceased person at the time of his death.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

Criminal breach of trust.

Illustrations.

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

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(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment
for criminal
breach of
trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal
breach of
trust by
carrier, etc.

407. Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal
breach of
trust by
clerk or
servant.

408. Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal
breach of
trust by
public
servant, or
by banker,
merchant or
agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property.

Stolen
property.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which ¹* * * criminal breach of trust has been committed, is designated as "stolen property," ²[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without ³[the States]].

¹ The words "the" and "offence of" were rep. by the Amending Act, 1891 (12 of 1891), and the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 9, respectively.

² Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 9.

³ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

(Chapter XVII.—Of Offences against Property.)

But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Whoever dishonestly receives or retains any stolen property, Dishonestly receiving stolen property. knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

412. Whoever dishonestly receives or retains any stolen property, Dishonestly receiving property stolen in the commission of a dacoity. the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413. Whoever habitually receives or deals in property which he Habitually dealing in stolen property. knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Assisting in concealment of stolen property.

Of Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly Cheating. induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

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(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money. A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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Of Fraudulent Deeds and Dispositions of Property.

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing debt being available for creditors.

423. Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

Of Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Mischief.

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

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Illustrations.

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment
for mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Mischief
causing
damage to
the amount
of fifty
rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by
killing or
maiming
animal of
the value of
ten rupees.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by
killing or
maiming
cattle, etc.,
of any value
or any animal
of the value
of fifty
rupees.

429. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by
injury to
works of
irrigation
or by wrong-
fully divert-
ing water.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by
injury to
public road,
bridge, river
or channel.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable

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or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying, moving or rendering less useful a light-house or sea-mark.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by destroying or moving, etc., a land-mark fixed by public authority.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards ¹[or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy house, etc.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.

¹ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 10.

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Punishment
for the
mischief
described
in section
437 commit-
ted by fire
or explosive
substance.

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment
for inten-
tionally
running
vessel
aground or
ashore with
intent to
commit
theft, etc.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief
committed
after pre-
paration
made for
causing
death or
hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass.

Criminal
trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,
is said to commit "criminal trespass".

House-
trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Lurking
house-
trespass.

443. Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

Lurking
house-
trespass by
night.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

House-
breaking.

445. A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the

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house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations.

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is a house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

House-breaking by night.

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Punishment
for criminal
trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment
for house-
trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

House-tres-
pass in order
to commit
offence
punishable
with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-tres-
pass in order
to commit
offence
punishable
with trans-
portation
for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-tres-
pass in order
to commit
offence
punishable
with impri-
sonment.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-tres-
pass after
preparation
for hurt,
assault or
wrongful
restraint.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment
for lurking
house-tres-
pass or
house-
breaking.

453. Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking
house-tres-
pass or house-
breaking in
order to
commit
offence
punishable
with im-
prisonment.

454. Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking
house-tres-
pass or house-
breaking
after
preparation

455. Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful

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restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

for hurt,
assault or
wrongful
restraint.

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment
for lurking
house-tres-
pass or house-
breaking by
night.

457. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking
house-tres-
pass or
house-break-
ing by night
in order
to commit
offence
punishable
with impri-
sonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking
house-tres-
pass or house-
breaking by
night after
preparation
for hurt,
assault, or
wrongful
restraint.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Grievous
hurt caused
whilst com-
mitting
lurking
house-
trespass
or house-
breaking.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons
jointly con-
cerned in
lurking
house-tres-
pass or
house-break-
ing by night
punishable
where
death or
grievous
hurt caused
by one of
them.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly
breaking
open recep-
tacle contain-
ing property.

(Chapter XVII.—Of Offences against Property. Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

Punishment
for same
offence when
committed
by person
entrusted
with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

Forgery.

463. Whoever makes any false document or part of a document, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a
false docu-
ment.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed ; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration ; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration. .

Illustrations.

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable, here A has committed forgery.

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment
for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of
record of
Court or of
public
register, etc.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of
valuable
security,
will, etc.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for
purpose of
cheating.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Forgery for purpose of harming reputation.

470. A false document made wholly or in part by forgery is designated "a forged document."

Forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.

473. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such

Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

marked material.

device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting device or mark use for authenticating documents other than those described in section 467, or possessing counterfeit marked material.

476. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, etc., of will authority to adopt, or valuable security.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Falsification of accounts.

¹[**477A.** Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

Of Trade, Property and Other Marks.

Trade mark.

²[**478.** For the purposes of this Code, the expression “trade mark” includes a trade mark registered under the Trade Marks Act, 1940, v of 1940.

¹ S. 477A ins. by the Criminal Law Amendment Act, 1895 (3 of 1895), s. 4.

² Subs. by the Indian Merchandise Marks (Amendment) Act, 1941 (2 of 1941), s. 12, for the former s. 478 which had been subs. by the Indian Merchandise Marks Act, 1889 (4 of 1889), s. 3, for the original section.

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

and any mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right to use the mark.]

¹[479. A mark used for denoting that moveable property belongs to a particular person is called a property mark. Property mark.

480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, ²[have a connection in the course of trade with a person with whom they have not any such connection], is said to use a false trade mark. Using a false trade mark

481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark. Using a false property mark.

482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Punishment for using a false trade mark or property mark.

483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Counterfeiting a trade mark or property mark used by another.

484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Counterfeiting a mark used by a public servant.

¹ Ss. 479 to 489 were subs. by the Indian Merchandise Marks Act, 1889 (4 of 1889), s. 3, for the original sections.

² Subs. by the Indian Merchandise Marks (Amendment) Act, 1941 (2 of 1941), s. 13, for "are the manufacture or merchandise of a person whose manufacture or merchandise they are not".

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

Making or possession of any instrument for counterfeiting a trade mark or property mark.

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods marked with a counterfeit trade mark or property mark.

486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or thing with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,
be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks.)

OF Currency-Notes and Bank-Notes.

¹[489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Counterfeiting currency-notes or bank-notes.

Explanation.—For the purposes of this section and of sections 489B, 489C and 489D, the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.

489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Using as genuine, forged or counterfeit currency-notes or bank-notes.

489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. Possession of forged or counterfeit currency-notes or bank-notes.

489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

²[489E. (1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-notes or bank-note shall be punished with fine which may extend to one hundred rupees. Making or using documents resembling currency-notes or bank-notes.

¹ Ss. 489A to 489D were ins. by the Currency Notes Forgery Act, 1899 (12 of 1899), s. 2.

² S. 489E was ins. by the Indian Penal Code (Amendment) Act, 1943 (6 of 1943), s. 2.

(Chapter XVIII.—Of Offences relating to Documents and to Trade or Property Marks. Chapter XIX.—Of the Criminal Breach of Contracts of Service. Chapter XX.—Of Offences relating to Marriage.)

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490. [*Breach of contract of service during voyage or journey.*] Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925) s. 2 and Sch.

Breach of contract to attend on and supply wants of helpless person.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

492. [*Breach of contract to serve at distant place to which servant is conveyed at master's expense.*] Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (III 1925), s. 2 and Sch.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(Chapter XX.—Of Offences relating to Marriage.)

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real stage of facts so far as the same are within his or her knowledge.

495. Whoever commits the offence defined in the last preceeding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Adultery.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with criminal intent a married woman.

(Chapter XXI.—Of Defamation.)

CHAPTER XXI.

OF DEFAMATION.

Defamation.

499. Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustration.

(a) A says—"Z is an honest man; he never stole B's watch": intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

Imputation
of truth
which public
good requires
to be made
or published.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public con-
duct of
public ser-
vants.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

(Chapter XXI.—Of Defamation.)

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Conduct of
any person
touching
any public
question.

Illustration.

It is not defamation in A to express in good faith any opinion whatever excepting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication
of reports of
proceedings
of Courts.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Merits of
case decided
in Court or
conduct of
witnesses
and other
concerns

Illustrations.

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Merits of
public per-
formance.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(Chapter XXI.—Of Defamation.)

(d) A says of a book published by Z—"Z's book is foolish : Z must be a weak man. Z's book is indecent ; Z must be a man of impure mind." A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(e) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Censure
passed in
good faith
by person
having lawful
authority
over another.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court ; a head of a department censuring in good faith those who are under his orders ; a parent censuring in good faith a child in the presence of other children ; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils ; a master censuring a servant in good faith for remissness in service ; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Accusation
preferred in
good faith to
authorized
person.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate ; if A in good faith complains of the conduct of Z, a servant, to Z's master ; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Imputation
made in
good faith
by person for
protection of
his or other's
interests,

Ninth Exception.—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

Illustrations.

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Caution in-
tended for
good of per-
son to whom
conveyed or
for public
good.

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Punishment
for defama-
tion.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(Chapter XXI.—Of Defamation. Chapter XXII.—Of Criminal Intimidation, Insult and Annoyance.)

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Intentional insult with intent to provoke breach of the peace.

¹[505. Whoever makes, publishes or circulates any statement, rumour or report,—

Statements conducing to public mischief.

- (a) with intent to cause, or which is likely to cause, any officer, soldier, ²[sailor or airman] in the Army, ³[Navy or Air Force] ⁴[of India] to mutiny or otherwise disregard or fail in his duty as such; or

¹ Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 6, for the original section.

² Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "or sailor".

³ Subs. by s. 2 and Sch. I, *ibid.*, for "or navy".

⁴ Subs. by the A. O. 1950 for "of Her Majesty or in the Imperial Service Troops". The words "or in the Royal Indian Marine" occurring after the word "Majesty" were rep. by Act 35 of 1934.

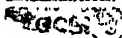
(Chapter XXII.—Of Criminal Intimidation, Insult and Annoyance.)

(b) With intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.]

Punishment
for criminal
intimidation.


506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

If threat be
to cause
death or
grievous
hurt, etc.

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal in-
timidation by
an anony-
mous com-
munication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceeding section.

Act caused
by inducing
person to
believe that
he will be
rendered an
object of the
Divine dis-
pleasure.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

(Chapter XXII.—Of Criminal Intimidation, Insult and Annoyance.
Chapter XXIII.—Of Attempts to Commit Offences.)

Illustrations.

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Word, gesture or act intended to insult the modesty of a woman.

510. Whoever, in a state of intoxication appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

Misconduct in public by a drunken person.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

Illustrations.

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

¹[THE POLICE ACT, 1861.]

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ACT NO. V OF 1861¹

[22nd March, 1861.]

An Act for the Regulation of Police.

Preamble.

WHEREAS it is expedient to re-organize the police and to make it a more efficient instrument for the prevention and detection of crime ; It is enacted as follows:—

Interpretation clause.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,—

² the words “Magistrate of the district” shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled:

¹ This Act has been applied to—

the Sánthal Parganas by the Sánthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3;

the Town of Calcutta and its suburbs, with modifications by the Calcutta Police Act, 1898 (Ben. 1 of 1898);

the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and

the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

the areas transferred to Orissa from the Madras Presidency, by the Orissa Laws Regulation, 1936 (1 of 1936).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely: the District of Hazaribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44) and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum, see Gazette of India, 1881, Pt. I, p. 504, and the Porahat Estate in the Singhbhum District, see Gazette of India, 1897, Pt. I, p. 1059.

It has been extended, by notification under s. 5 of the same Act, to the Kumaon and Garhwal Districts, see Gazette of India, 1891, Pt. I, p. 185, and (with the exception of s. 5) to the Scheduled District of Coorg, see Gazette of India, 1914, Pt. II, p. 2347. Ss. 15, 15A, 16, 30, 30A, 31 and 32 have been extended to the Scheduled Districts in Ganjam and Vizagapatam, see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 873. The whole Act has been extended to the Amindivi Islands attached to the South Kanara District; see Fort St. George Gazette 1935, Pt. I, p. 1202.

It has been extended to the New Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

As to special enactments in force in Madras, Bombay and Lower Provinces of Bengal, and extensions of this Act under the power conferred by s. 46, see notes to that section.

As to special enactments for Military, Frontier or Rural Police in force in certain parts of the States, see foot-note to s. 8.

As to the creation of special police-districts embracing parts of two or more Provinces and the extension to every part thereof of the powers and jurisdiction of members of a police force belonging to any part of the States, see the Police Act, 1888 (3 of 1888).

As to special enactments for Delhi Province supplementing this Act, see Act 25 of 1946.

The Act has been amended in its application to—

the C. P. and Berar by C. P. and Berar Act 3 of 1937; Madras by Madras Act 13 of 1948; and the U. P. by U. P. Acts 2 of 1939 and 2 of 1944.

² Cf. also s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

the word "Magistrate" shall include all persons within the general police-district, exercising all or any of the powers of a Magistrate:

the word "police" shall include all persons who shall be enrolled under this Act:

the words "general police-district" shall embrace any¹ presidency, ²[State] or place, or any part of any presidency, ²[State] or place, in which this Act shall be ordered to take effect:

³[the words "District Superintendent" and "District Superintendent of Police" shall include any Assistant District Superintendent or other person appointed by general or special order of the ⁴[State Government] to perform all or any of the duties of a District Superintendent of Police under this Act in any district:]

the word "property" shall include any moveable property, money or valuable security:

* * * * *

the word "person" shall include a company or corporation:

the words "month" shall mean a calendar month:

⁶the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

⁷[References to the subordinate ranks of a police force shall be construed as references to members of that force below the rank of Deputy Superintendent.]

⁸2. The entire police-establishment under a ⁴[State Government] shall, for the purposes of this Act, be deemed to be one ⁹police force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, ¹⁰* * * as shall from time to time be ordered by the ⁴[State Government] ¹¹* * *

Constitution of the force.

⁷[Subject to the provisions of this Act the pay and all other conditions of service of members of the subordinate ranks of any police force shall be such as may be determined by the ¹²[State] Government.]

¹ Under s. 2 of the Police Act, 1888 (3 of 1888), the Central Government may, notwithstanding this provision, create a special police-district, consisting of parts of two or more Provinces.

As to Delhi Province, see Gazette of India, 1912, Pt. I, p. 1105.

² Subs. by the A. O. 1950 for "Province".

³ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895) s. 1.

⁴ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G.".

⁵ The clauses relating to "number" and "gender" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

⁶ Cf. definition of "cattle" in s. 3 of the Cattle-trespass Act, 1871 (1 of 1871).

⁷ Ins. by the A. O. 1937.

⁸ S. 2, so far as it is related to the provinces under the administration of the Lieutenant-Governor of Bengal, rep. by the Bengal Police Act, 1869 (Ben. 7 of 1869).

⁹ See note to s. 8, *infra*, as to enrolment of the police force in certain places.

¹⁰ The words "and the members of such force shall receive such pay" rep. by the A. O. 1937.

¹¹ The words "subject in the case of officers of the Indian Police of and above the rank of Assistant Superintendent to the control of the Governor-General of India in Council" rep. by the A. O. 1937.

¹² Subs. by the A. O. 1950 for "Provincial".

Superintend-
ance in the
State
Government.

3. The superintendence of the police throughout a general police-district shall vest in and ¹ * * * * shall be exercised by the ²[State Government] to which such district is subordinate ; and, except as authorised under the provisions of this Act, no person, officer or Court shall be empowered by the ²[State Government] to * * * supersede or control any police functionary.

Inspector-
General of
Police, etc.

4. ⁴The administration of the police throughout a general police-district shall be vested in an officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General and Assistant Inspectors-General as to the ²[State Government] shall seem fit.

The administration of the police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the ²[State Government] shall consider necessary.

* * * * *

Powers of
Inspector-
General.
Exercise of
powers.

5. The Inspector-General of Police shall have the full powers of a Magistrate throughout the general police-district ; but shall exercise those powers subject to such limitation as may from time time be imposed by the ²[State Government].

6. [Magisterial powers of police-officers. Rep. by the Code of Criminal Procedure, 1882 (Act X of 1882).

Appoint-
ment, dis-
missal, etc.,
of inferior
officers.

7. ⁶[Subject to such rules as the ⁷[State] Government may from time to time make under this Act, the Inspector-General, Deputy Inspector-General, Assistant Inspector-General and District Superintendents of Police may at any time dismiss, suspend or reduce any police-officer of the subordinate ranks] whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same ;

⁸[or may award any one or more of the following punishments to any police-officer ⁹[of the subordinate ranks] who shall discharge his

¹ The words " subject in the case of officers of the Indian Police of and above the rank of Assistant Superintendent to the general control of the Governor-General of India in Council " rep. by the A. O. 1937.

² See footnote 4 on p. 371 *supra*.

³ The word " appoint " rep. by the A. O. 1937.

⁴ In the town and suburbs of Calcutta, the administration of the Police vests in the " Commissioner of Police ", see s. 3 of the Calcutta Police Act, 1866 (Ben. 4 of 1866).

⁵ The sentence " The Inspector-General and other officers above mentioned shall from time to time be appointed by the L. G. and may be removed by the same authority " was rep. by the A. O. 1937.

⁶ Subs. by the A. O. 1937 for " The appointment of all police-officers other than those mentioned in section 4 of this Act shall, under such rules as the L. G. shall from time to time sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend or reduce any police-officer ".

⁷ Subs. by the A. O. 1950 for " Provincial ".

⁸ The second paragraph of s. 7 was subs. for " or fine any police-officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who, by any act of his own, shall render himself unfit for the discharge thereof," by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 2.

⁹ Ins. by the A. O. 1937.

duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely:—

- (a) fine to any amount not exceeding one month's pay ;
- (b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty ;
- (c) deprivation of good-conduct pay ;
- (d) removal from any office of distinction or special emolument]¹.

8. ²Every police-officer ³[appointed to the police force other than an officer mentioned in section 4] shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a police-officer. Certificates to police-officers.

⁴[Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same. Surrender of Certificate.

A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.]

¹ For cl. (e), applicable to certain areas in the U. P., see U. P. Act 2 of 1944.

² As to enrolment, maintenance and discipline of—

(1) the Military Police-force employed in—

(a) the Andaman and Nicobar Islands, see the Andaman and Nicobar Islands Military Police (Disbandment) Regulation, 1946 (3 of 1946);

(b) Assam, see the Assam Rifles Act, 1941 (5 of 1941);

(c) Bengal, see the Eastern Frontier Rifles (Bengal Battalion) Act, 1920 (Ben. 2 of 1920);

(2) the Punjab Frontier Police-officers, see the Punjab Frontier Police-officers Regulation, 1893 (7 of 1893);

(3) the Calcutta and Suburban Police, see the Calcutta Police Act, 1866 (Ben. 4 of 1866) and the Calcutta Suburban Police Act, 1866 (Ben. 2 of 1866);

(4) the Police establishment in municipal areas in the U. P., see the U. P. Municipalities Act, 1916 (U. P. 2 of 1916);

(5) the Police establishment in municipal areas in the Punjab, see the Punjab Municipal Act, 1911 (Punjab 3 of 1911);

(6) the Rural Police in the Sánthal Parganas, see the Sánthal Parganas Rural Police Regulation, 1910 (4 of 1910);

(7) the Rural Police in Chota Nagpur, see the Chota Nagpur Rural Police Act, 1914 (B. & O. 1 of 1914);

(8) the U. P. Special Armed Constabulary, see the U. P. Special Armed Constabulary Act, 1942 (U. P. 5 of 1942); and

(9) the Delhi Special Police Establishment, see the Delhi Special Police Establishment Act, 1946 (25 of 1946).

³ Subs. by the A. O. 1937 for "so appointed".

⁴ These two paragraphs were subs. for the original paragraph by the Police Act (1861) Amendment Act, 1895 (3 of 1895), s. 3.

Police-officer
not to resign
without leave
or two
months'
notice.

9. No police-officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his office, ¹[*unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign*].

Police-officers
not to engage
in other em-
ployment.

10. No police-officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

11. [*Police superannuation fund.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

Power of
Inspector-
General to
make rules.

12. The Inspector-General of Police may, from time to time, subject to the approval of the ²[State Government], frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police-force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessities to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police-force as the Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

Additional
police-officers
employed at
cost of indi-
viduals.

13. It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General, or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of police-officers to keep the peace at any place within the general police-district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application:

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the police-officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment
of additional
force in the
neighbour-
hood of rail-
way and
other works.

14. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the employment of an additional police-force in such

¹ These words shall be deemed to have been rep. so long as the Police (Resignation of office) Ordinance, 1942 (11 of 1942), remains in force: *see* s. 2 and Sch. of that Ordinance.

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G.".

place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector-General, with the consent of the ¹[State Government], to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

²[15. (1) It shall be lawful for the ¹[State Government], by proclamation to be notified in the Official Gazette, and in such other manner as the ¹[State Government] shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

Quartermen
of additional
police in dis-
turbed or
dangerous
districts.

(2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the ¹[State Government] in this behalf, with the sanction of the ¹[State Government], to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the ¹[State Government] by order to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the ¹[State Government] may in each case think fit to direct.

Explanation.—For the purpose of this section, “inhabitants” shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and

¹ See footnote 4 on p. 371. *supra*.

² Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 4, for the original section.

landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein].

Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.

¹[15A. (1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the ²[State Government] after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct ;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them ; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section :

Provided that the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of opinion that such injury as aforesaid had arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall lawful for the ²[State Government], by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the ²[State Government], but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

¹ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895) s. 5. For the amendment of this section in Madras and in certain areas of the U. P., see Madras Act 13 of 1948 and U. P. Act 2 of 1939, respectively.

² See footnote 4 on p. 371, *supra*.

(6) *Explanation*.—In this section the word “inhabitants” shall have the same meaning as in the last preceding section].

¹[16. (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by ²sections 386 and 387 of the Code of Criminal Procedure, 1882, for the recovery of fines, or by suit in any competent Court.

Recovery of moneys payable under sections 13, 14, 15 and 15A and disposal of same when recovered.

* * * * *

(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.]

17. When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the police-force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such police-officers may require to act as special police-officers for such time and within such limits as he shall deem necessary, and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Special police-officers.

18. Every special police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

Powers of special police-officers.

19. If any person being appointed a special police-officer as aforesaid shall without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Refusal to serve as special police-officers.

20. Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

Authority to be exercised by police-officers.

¹ Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 6, for the original section.

² See now the same sections of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

³ Sub-section (2) which read “All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called ‘The General Police Fund,’ and shall be applied to the maintenance of the police-force under such orders as the L. G. shall pass”, was rep. by the A. O. 1937. See however, para. 4 of the India and Burma (Transitory Provisions) Order, 1937.

⁴ For some cases in which the application of s. 20 has been restricted, see the Assam Police-officers Regulation, 1883 (2 of 1883), and s. 2 of the Punjab Frontier Police-officers Regulation, 1893 (7 of 1893).

Village-
police-
officers.

21. Nothing in this Act shall affect any hereditary or other village police-officer, unless such officer shall be enrolled as a police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police-
chaukidars
in the Presi-
dency of Fort
William.

If any police-officer appointed under ¹Act XX of 1856 (*to make better provision for the appointment and maintenance of Police-chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

Police-officers
always on
duty and
may be
employed in
and part of
district.

22. Every police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police-officer in any part of the general police-district.

Duties of
police-
officers.

23. It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority ; to collect and communicate intelligence affecting the public peace ; to prevent the commission of offences and public nuisances ; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists : and it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.

Police-officers
may lay in-
formation,
etc.

24. It shall be lawful for any police-officer to lay any information before a Magistrate, and to apply for a summons, warrant search-warrant or such other legal process as may by law issue against any person committing an offence 2* * * * *

Police-officers
to take
charge of
unclaimed
property, and
be subject to
Magistrate's
orders as to
disposal.

25. It shall be the duty of every police-officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district.

The police officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

Magistrate
may detain
property and
issue pro-
clamation.

26. (1) The Magistrate of the district may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

¹ The Bengal Chaukidari Act, 1856.

² The words "and to prosecute such person up to final judgment" were rep. by the Code of Criminal Procedure, 1882 (Act 10 of 1882).

X of 1882. ¹[(2) The provisions of section 525 of the ²Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section.]

³[27. (1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, if not already sold under sub-section (2) of the last preceding section, be sold under the orders of the Magistrate of the district. Confiscation of property if no claimant appears]

(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be ⁴[at the disposal of the ⁵[State] Government].]

28. Every person, having ceased to be an enrolled police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessities which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment with or without hard labour, for a period not exceeding six months, or to both. Person refusing to deliver up certificate, etc., on ceasing to be Police-officer

29. Every police-officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, ⁶[or without having given previous notice for the period of two months,] ⁷[or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave,] or who shall engage without authority in any employment other than his police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour, for a period not exceeding three months, or to both. Penalties for neglect of duty, etc.

⁸[30. (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. Regulation of public assemblies and processions and licensing of same.]

(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such

¹ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 7.

² See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 525.

³ Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 8, for the original section.

⁴ Subs. by the A. O. 1937 for "at the disposal of Govt."

⁵ Subs. by the A. O. 1950 for "Provincial".

⁶ These words shall be deemed to have been rep. so long as the Police (Resignation of Office) Ordinance, 1942 (11 of 1942), remains in force: see s. 2 and Sch. of that Ordinance.

⁷ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 9.

⁸ Subs. by s. 10, *ibid.*, for the original section.

road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district, or of the sub-division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

(3) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section: Provided that no fee shall be charged on the application for, or grant of, any such license.

Music in the streets.

(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.]

Powers with regard to assemblies and processions violating conditions of license.

¹[30A. (1) Any Magistrate or district Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.]

Police to keep order in public roads, etc.

31. It shall be the duty of the police to keep order on the public roads and in the public streets, thoroughfares, ghâts and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghât or landing-place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last three sections, etc.

32. Every person opposing or not obeying the orders issued under the last ²[three] preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, in conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Saving of control of Magistrate of district.

33. Nothing in the last ³[four] preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

¹ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 11.

² Subs. by s. 12, *ibid.*, for "two".

³ Subs. by s. 12, *ibid.*, for "three".

34. Any person who, on any road or in any ¹[open place or] street or thoroughfare within the limits of any town to which this section shall be specially extended by the ²[State Government], commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the ³[residents or passengers] shall on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment ⁴[with or without hard labour] not exceeding eight days ; and it shall be lawful for any police-officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :—

Punishment for certain offences on roads, etc.

Power of police-officers.

First.—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle :

Slaughtering cattle, furiously riding, etc.

Second.—Any person who wantonly or cruelly beats, abuses or tortures any animal :

Cruelty to animals.

Third.—Any person who keeps any cattle or conveyance of any standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public :

Obstructing passengers.

Fourth.—Any person who exposes any goods for sale :

Exposing goods for sale.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials, or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heap or the like :

Throwing dirt into street.

Sixth.—Any person who is found drunk or riotous or who is incapable of taking care of himself :

Being found drunk or riotous.

Seventh.—Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose :

Indecent exposure of person.

Eighth.—Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure.

Neglect to protect dangerous places.

35. * * * Any charge against a police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a ⁵Magistrate.

Jurisdiction.

¹ Ins. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 13.

² See footnote 4 on p. 371, *supra*.

³ Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 13, for "residents and passengers".

⁴ Ins. by the Amending Act, 1903 (1 of 1903), s. 3 and Sch. II.

⁵ The words "In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine of imprisonment which he may inflict: Provided that," were rep. by the Code of Criminal Procedure, 1882 (Act 10 of 1882).

⁶ i.e., by a Magistrate of the first class, see s. 3 (2) of the Code of Criminal Procedure, 1898 (5 of 1898).

Power to
prosecute
under
other law
not affected.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act or any other or higher penalty or punishment than is provided for such offence by this Act:

Proviso.

Provided that no person shall be punished twice for the same offence.

Recovery of
penalties and
fines imposed
by Magis-
trates.

¹[37. The provisions of sections 64 to 70, both inclusive, of the XLV of 1860. Indian Penal Code, and of sections 386 to 389, both inclusive, of the ²Code of Criminal Procedure, 1882, with respect to fines, shall apply X of 1882. to penalties and fines imposed under this Act on conviction before a Magistrate:

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.]

38. [*Procedure until return is made to warrant of distress.*] Rep. by the Police Act (1861) Amendment Act, 1895 (VIII of 1895), s. 14.

39. [*Imprisonment if distress not sufficient.*] Rep., *ibid.*

40. [*Levy of fines from European British subjects.*] Rep., *ibid.*

41. [*Rewards to police and informers payable to General Police Fund.*] Rep. by the A. O. 1937.³

Limitation
of actions.

⁴42. *All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general police-powers hereby given shall be commenced within three months after the act complained of shall have been committed, and not otherwise ; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superinten-*

¹ Subs. by the Police Act (1861) Amendment Act, 1895 (8 of 1895), s. 14, for the original ss. 37 to 40.

² See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

³ See, however, paragraph 4 of the India and Burma (Transitory Provisions) Order, 1937. Sec. 41 read as follows:—"All sums paid for the service of process by police-officers, and all rewards, forfeitures and penalties or shares of rewards, forfeitures and penalties which by law are payable to informers shall, when the information is laid by a police-officer, be paid into the General Police Fund",

⁴ So much of s. 42 (the portion printed in italics) as relates to the limitation of suits was rep. by the Indian Limitation Act, 1871 (9 of 1871).

dent of the District in which the act was committed, one month at least before the commencement of the action.

No plaintiff shall recover in any such action if tender of sufficient amend shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action: Tender of amends.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act. Proviso.

43. When any action or prosecution shall be brought or any proceedings held against any police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Plea that act was done under warrant.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section. Proviso.

44. It shall be the duty of every officer in charge of a police-station to keep a general diary in such form as shall, from time to time, be prescribed by the ¹[State Government] and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined. Police-officers to keep diary.

The Magistrate of the district shall be at liberty to call for and inspect such diary.

45. The ¹[State Government] may direct the submission of such returns by the Inspector-General and other police-officers as to such ¹[State Government] shall seem proper, and may prescribe the form in which such returns shall be made. State Government may prescribe form of returns.

²[46. (1) This Act shall not by its own operation take effect in Scope of Act.

¹ See footnote 4 on p. 371, *supra*.

² Subs. by the Police Act (1861) Amendment Act, -895 (8 of 1895), s. 15, for the original section.

any ¹presidency, ²[State] or place. But the ³[State Government] by an order to be published in the ⁵[Official Gazette] may extend the whole or any part of this Act to any presidency, ²[State] or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, ²[State] or place.

(2) When the whole or any part of this Act shall have been so extended, the ⁵[State Government] may, from time to time, by notification in the Official Gazette, make rules consistent with this Act—

- (a) to regulate the procedure to be followed by Magistrates and police-officers in the discharge of any duty imposed upon them by or under this Act ;
- (b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon ; and,
- (c) generally, for giving effect to the provisions of this Act.

¹ In the States of Madras and Bombay there are special Police Acts, see the Madras District Police Act, 1859 (24 of 1859) and the Bombay District Police Act, 1867 (Bom. 7 of 1867). In the Lower Provinces of Bengal, Bengal Act 7 of 1869 is to be read and taken as part of Act 5 of 1861, see s. 6 of the former Act.

This Act has been extended under the power conferred by the original section to—

- (1) the U. P. including Ajmer-Merwara then under that Government, see Notification No. 964 in the North-Western Provinces Gazette, 1861, p. 634:

[The orders as to enforcement of the Act in 27 districts in the U. P., in Hamirpur, Jalaun, Jhansi, Lalitpur, Naini Tal (including the Tarai Parganas) and Almora and Garhwal, issued under the original s. 46, paragraph 2 (after the Act had been extended under paragraph 1 of that section to the whole province), are kept in force by s. 16 of Act 8 of 1895.]

- (2) Oudh, see Notification No. 34 in the North-Western Provinces Gazette, 1861, p. 1758;
- (3) the tract of land between Allahabad and Jubbulpore ceded in full sovereignty by certain Native States;
- (4) the C. P., Districts of Nagpur, Raipur, Bhandara, Chanda and Chhindwara, Sironcha, Nimar;
- (5) Bengal and Assam;
- (6) several districts in the Punjab, see Notification No. 971, dated 15th May 1861, Calcutta Gazette, 18th May 1861, p. 1302.

Under the power conferred by the section as it stood before the 1st April 1937, it has been extended as follows to—

- (1) Madras: ss. 15, 15A, 16, 30, 30A, 31 and 32 of the Act have been extended to the whole of the Madras Presidency, see Notification No. 728, dated 31st October 1895, Gazette of India, 1895, Pt. I, p. 876.
- (2) Eastern Dooars in the Goalpara District, see Notification No. 230, Gazette of India, 1897, Pt. I, p. 198.
- (3) the North and South Lushai Hills and the tract known as Rutton Puiya's villages including Demagri (now known as the Lushai Hills), see Gazette of India, 1898, Pt. I, p. 370.

For list of provinces and districts to which the Act has been extended by special enactments, see footnote 1 on p. 370 *supra*.

² Subs. by the A. O. 1950 for "Province".

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "G. G. in C".

⁴ Subs. by the A. O. 1937 for "Gazette of India".

⁵ See footnote 4 on p. 371 *supra*.

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the ¹[State Government].]

47. It shall be lawful for the ¹[State Government] in carrying this Act into effect in any part of the territories subject to such ¹[State Government], to declare that any authority which now is or may be exercised by the Magistrate of the district over any village-watchman or other village-police-officer for the purposes of police, shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police.

Authority of
District
Superinten-
dent of Police
over village-
police.

FORM.

(See section 8.)

A.B. has been appointed a member of the police-force under Act V of 1861, and is vested with the powers, functions and privileges of a police-officer.

²[THE STAGE-CARRIAGES ACT, 1861.]

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¹ See footnote 4 on p. 371 *supra*.

² Short title given by the Indian Short Titles Act 1897 (14 of 1897).

Cf. the Stage-Carriages Act, 1832 (2 & 3, Wm. IV, c. 120); the London Hackney Carriages Act, 1833 (3 & 4 Wm. IV, c. 48); the Railway Passenger Duty Act, 1842 (5 & 6 Vict., c. 79); the Railway Passenger Duty Act, 1847 (10 & 11 Vict., c. 42); the Excise Act, 1848 (11 & 12 Vict., c. 118), s. 2.

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ACT NO. XVI OF 1861.

[7th July, 1861.]

An Act for licensing and regulating Stage-Carriages.

Preamble.

WHEREAS it is expedient to license and to regulate stage-carriages in ¹[the Provinces]; It is enacted as follows:—

Definition of stage-carriage.

1. Every carriage drawn by one or more ²horses which shall ordinarily be used for the purpose of conveying passengers for hire

This Act, as amended by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), has been declared to apply to all the States of India, but not so as to supersede or contravene provisions of local laws dealing with the same subject—see s. 22. For local laws, see the Bombay Public Conveyance Act, 1920 (Bom. 7 of 1920), the Madras Hackney Carriage Act, 1911 (Mad. 5 of 1911), and the Calcutta Hackney Carriage Act, 1919 (Ben. 1 of 1919). Cf. also the Hackney Carriage Act, 1879 (14 of 1879).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Házaribagh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44) and Mámbhum, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum

See Gazette of India, 1881, Pt. I, p. 504.

The Taráí of the Province of Agra

Ditto 1876, Pt. I, p. 505.

It has been declared, by notification under s. 3 (a) of the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), to be in force in the Santhál Parganas, see Calcutta Gazette, 1901, Pt. I, p. 301.

¹ Subs. by the A. O. 1948 for "British India".

² All expressions and provisions in this Act applied to horses, also apply to all other animals employed in drawing stage-carriages, see section 21, *infra*.

to or from any place in ¹[the States] shall, without regard to the form or construction of such carriage, be deemed to be a stage-carriage within the meaning of this Act: 2* * * * * *

2. No carriage shall be used as a stage-carriage unless licensed Carriages to be licensed. by a ³Magistrate or by the ⁴* Commissioner of Police of a Presidency-town.

3. The Magistrate or ⁴* Commissioner of Police to whom the application for a license of stage-carriage is made may refuse to license the same if he shall be of opinion that such stage-carriage is unserviceable or is unsafe or unfit for public accommodation or use. Power to refuse license.

If a Magistrate or ⁴* Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the stage-carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed. Particulars of license.

4. ⁵[For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the ⁶[State Government] may fix, and such license shall be in force for one year from the date thereof.] Charge or and duration of license.

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year; and every person who appears by the license to be the proprietor shall be deemed to be such proprietor for all the purposes of this Act.

5. On any stage-carriage being licensed the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage. Particulars to be painted on conspicuous part of carriage.

6. The proprietor of any licensed stage-carriage who shall let such stage-carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section shall be liable to a fine not exceeding one hundred rupees. Penalty for letting carriage without having particulars painted.

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Proviso to s. 1 which read: "Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles" rep. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 2.

³ For definition of "Magistrate", see s. 21, *infra*.

⁴ The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

⁵ Subs. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 3, for the original paragraph.

⁶ See footnote 4 on p. 371 *supra*.

Penalty for letting for hire unlicensed carriage.

7. Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees.

Penalty for allowing carriage to be drawn by fewer animals or more passengers, etc., to be carried than provided by license.

8. Any proprietor, or agent of a proprietor, or any driver of a licensed stage-carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage, to be carried by such stage-carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees.

In every case where such stage-carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage, than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

Penalty for ill-treating animals.

9. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture or cause or procure to be cruelly beaten, ill-treated, over-driven, abused or tortured, any horse employed in drawing or harnessed to any stage-carriage, or who shall harness to or drive in any stage-carriage any horse which from sickness, age, wounds or other cause is unfit to be driven in such stage-carriage, shall for every such offence be liable to a fine not exceeding one hundred rupees.

Revocation of license.

10. Any Magistrate or ¹* Commissioner of Police within the local limits of whose jurisdiction any stage-carriage shall ply, or who has granted the license of any stage-carriage may cancel the license of such stage-carriage if it shall appear to him that such stage-carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of section 5.

11. In any station or place in which a Magistrate shall reside and be, any police-officer may, in any place within two miles of the office of such Magistrate, seize any stage-carriage with the horse harnessed thereto, if the full particulars of the license of such stage-carriage be not distinctly painted on such stage-carriage in the manner provided in section 5 of this Act.

Such carriage with the horse harnessed thereto shall be taken without delay by such police-officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such police-officer ; and, if thereupon any fine is imposed by such

¹ The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

Magistrate and such fine is paid, such stage-carriage and horse shall be immediately released ; and if such fine be not paid, such stage-carriage and horse may be detained for twenty days as security for the payment thereof ; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale ; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse ; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State.

If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

12. If any driver of any stage-carriage, or any other person having the care thereof, shall, through intoxication, neglect or by wanton or furious driving or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such stage-carriage or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred rupees.

Penalty for misconduct on part of drivers.

13. Whenever the driver of any stage-carriage or the owner of any horse employed in drawing any stage-carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed :

Penalty when recoverable from proprietor.

Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Proviso.

14. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a stage-carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter-post, which shall be deemed to be good service thereof.

Issue of summons.

The letter shall be registered at the post-office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case.

The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

Adjudication
of penalties.

15. All penalties incurred under this Act shall be adjudged by a Magistrate or ^{1*} Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or ^{1*} Commissioner of Police shall be final.

Recovery of
penalties, etc.

16. All penalties imposed under this Act, or any balance of any fine, costs or charges as mentioned in section 11 of this Act, may in case of non-payment or non-recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

Offender may
be apprehended and
detained in
custody
until return
of warrant
of distress.

17. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprison-
ment of
offender if
distress not
sufficient.

18. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender ^{2*} * * to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

19. [*Recovery of penalty and costs from European British subjects.*] Rep. by the A. O. 1950.

Jurisdiction.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

¹ The word "Chief" was rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

² The words "provided he is not a European British subject", rep. by the A. O. 1950.

¹[20A. (1) The ²[State Government] may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;
- (b) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and
- (c) regulate the number and length of the stages for which animals may be driven in stage-carriages and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section, the ²[State Government] may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.]

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a ³Magistrate: Interpretation-clause.
"Magistrate."

⁵[All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in ⁶[the States]:] Act applicable to all animals used for drawing carriages.

7* * * * *

⁸[22. This Act, as amended by subsequent Acts, extends to ⁹[the whole of India except part B States], but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.] Extent of Act.

¹[23. The ²[State Government] may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.] Power to State Government to exempt.

¹ Ins. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 4.

² See footnote 4 on p. 371 *supra*.

³ As to officers exercising the powers of a Magistrate, see s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

⁴ The definition of "British India" was rep. by the A. O. 1937.

⁵ Subs. by the Stage-Carriages Act (1861) Amendment Act, 1876 (16 of 1876), s. 1, for the original third clause.

⁶ See footnote 1 on p. 387 *supra*.

⁷ The clauses relating to "number" and "gender" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

⁸ Ss. 22 and 23 were added by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), s. 5. The original s. 22 regarding the commencement of this Act as originally passed had been rep. by the Repealing Act, 1870 (14 of 1870).

⁹ Subs. by the A. O. 1950 for "all the provinces of India" which had been subs. by the A. O. 1948 for "the whole of British India".

Rules of
ascertaining
that spirits
to be remov-
ed have been
rendered
unfit for
human
consumption,
etc.

2. ¹[In each ²[State]] the Board of Revenue, or other authority specially authorized in that behalf by the ³[Central Government] shall prescribe from time to time, subject to the approval of the ³[Central Government] rules—

for ascertaining and determining that spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by section 1 of this Act ;

for causing such spirits to be so rendered, if necessary, by its own officers at the expense of the person who wishes to remove them ; and

for fixing the value of the spirit on which the *ad valorem* duty shall be levied.

Penalty for
breach of
such rules.

3. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

Penalty for
attempting
to render fit
for human
consump-
tion spirits
removed
under Act.

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees ;

and the possessor of such spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any officer exercising the powers of a Magistrate, to a penalty not exceeding five hundred rupees.

Penalty how
levied.

5. Any penalty imposed under either of the last two preceding sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

In case of
non-payment
of penalty,
offender may
be detained
pending
return to
distress
warrant.

6. In case any such penalty shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprison-
ment of
offender in
case of
failure to
recover
penalty by
distress.

7. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or

in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued,

¹ Ins. by the A. O. 1937.

² Subs. by the A. O. 1950 for "Province".

³ Subs. by the A. O. 1937 for "L. G.".

any such officer may by warrant under his hand commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

8. [Provisions of section 11, Act III of 1852, relating to adulteration, not to apply to spirits rendered unfit for consumption under Act.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891), s. 2 (1).

9. In every case of conviction under section 3 or section 4 of this Act, the liquor or spirits with the cask or vessel containing the same, and the cart, boat and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

Confiscation
in cases of
conviction
under section
3 or 4.

¹[THE RELIGIOUS ENDOWMENTS ACT, 1863.]

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ACT No. XX OF 1863.¹

[10th March, 1863.]

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

WHEREAS it is expedient to relieve the Boards of Revenue, and the local Agents, in the Presidency of Fort William in Bengal, and

¹ For the Statement of Objects and Reasons of the Bill which became Act 20 of 1863 see *Calcutta Gazette*, 1862, p. 753, and for Proceedings in Council relating to the Bill, see *ibid*, Supplement, p. 28 ; and *ibid*, 1863, p. 105.

the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX, 1810, of the Bengal Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras and other public buildings; and for the custody and disposal of Nazul Property or Escheats), and Regulation VII, 1817, of the Madras Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chattrams, and other public buildings; and for the custody and disposal of Escheats), so far as those duties embrace the superintendence of lands granted for the support of mosques or Hindu temples and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; or involve any connexion with the management of such religious establishments; 1* * * * *. It is enacted as follows:—

Ben. Reg. XIX of 1810.

Mad. Reg. VII of 1817.

1. [Repeal of parts of Bengal Regulation XIX of 1810 and Madras Regulation VII of 1817.] Rep. by the Repealing Act, 1870 (XIV of 1870).

The Act has been extended to Kanara by the Religious Endowments (Extension to Kanara) Act, 1865 (Bom. 7 of 1865), which was specially passed for that purpose.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm and Pargana Dhálbhūm and the Kolhán in the District of Singhbhūm	See Gazette of India, 1881, Pt. I, p. 504.
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The Scheduled portion of the Mirzápur District	Ditto	1879, Pt. I, p. 383.
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Jaunsar Báwar	Ditto	1879, Pt. I, p. 382.
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The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870.
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Assam (except the North Lusháí Hills)	Ditto	1897, Pt. I, p. 299.
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It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606.
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The Taráí of the Province of Agra	Ditto	1876, Pt. I, p. 505.
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Ajmer and Merwára	Ditto	1877, Pt. I, p. 605.
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S. 22 applies to the whole of India except Part B States.

It has been repealed in Madras as to Hindu Religious Endowments by the Madras Hindu Religious Endowments Act, 1926 (Mad. 2 of 1927), and in Orissa by the Orissa Hindu Religious Endowments Act, 1939 (Orissa 4 of 1939), and has been amended in Bengal by the Bengal Waqf Act, 1934 (Ben. 13 of 1934).

¹The words and figures "and whereas it is expedient for that purpose to repeal so much of Regulation 19, 1810, of the Bengal Code, and Regulation 7, 1817, of the Madras Code, as relate to endowments for the support of mosques, Hindu temples or other religious purposes", were rep. by the Repealing Act, 1874 (16 of 1874).

Interpreta-
tion-clause.

2. In this Act—

1* * * *

1* * * *

“Civil
Court” and
“Court”.

the words “Civil Court” and “Court” shall ²[save as provided in section 10] mean the principal Court or original civil jurisdiction in the district in which ²[or any other Court empowered in that behalf by the ³[State Government] within the local limits of the jurisdiction of which] the mosque, temple or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

Government
to make
special
provision
respecting
mosques,
etc.

3. In the case of every mosque, temple or other religious establishment to which the provisions of either of the Regulations specified in ⁴[the preamble to this Act,] are applicable, and nomination of the trustee, manager or superintendent thereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer, or in which the nomination of such trustee, manager or superintendent shall be subject to the confirmation of the Government or any public officer, the ³[State Government] shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to
trustees, etc.
of trust-
property in
charge of
Revenue
Board.

4. In the case of every such mosque, temple or other religious establishment which, at the time of the passing of this Act, shall be under the management of any trustee, manager or superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of the Government or any public officer, the ³[State Government] shall, as soon as possible after the passing of this Act, transfer to such trustee, manager or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such mosque, temple or other religious establishment, except such property as is hereinafter provided ;

Cessation of
Board's
powers as to
such
property.

and the powers and responsibilities of the Board of Revenue, and the local agents, in respect to such mosque, temple or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local agent, previous to such transfer, shall cease and determine.

¹ The clauses relating to “number” and “gender” rep. by the Repealing and Amending Act, 1914 (10 of 1914).

² Ins. by the Religious Endowments (Amendment) Act, 1925 (21 of 1925) s. 2.

³ See footnote 4 on p. 371 *supra*.

⁴ Subs. by the Repealing and Amending Act, 1891 (12 of 1891), for “section 1”.

5. Whenever from any cause a vacancy shall occur in the office of any trustee, manager or superintendent, to whom any property shall have been transferred under the last preceding section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the mosque, temple or religious establishment to which such property shall belong ; or in the performance of the worship or of the service thereof, or the trusts relating thereto, to apply to the Civil Court to appoint a manager of such mosque, temple or other religious establishment, and thereupon such Court may appoint such manager to act until some other person shall by suit have established his right of succession to such office.

Procedure in case of dispute as to right of succession to vacated trusteeship.

The manager so appointed by the Civil Court shall have and shall exercise all the powers which, under this or any other Act, the former trustee, manager or superintendent, in whose place such manager is appointed by the Court, had or could exercise in relation to such mosque, temple or religious establishment, or the property belonging thereto.

Powers of managers appointed by Court.

6. The rights, powers and responsibilities of every trustee, manager or superintendent, to whom the land and other property of any mosque, temple or other religious establishment is transferred in the manner prescribed in section 4 of this Act, as well as the conditions of their appointment, election and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue and local agents, given by the Regulations hereby repealed, over such mosque, temple or religious establishment, and over such trustee, manager or superintendent, which authority is hereby determined and repealed.

Rights, etc., of trustees to whom property is transferred under section 4.

All the powers which might be exercised by any Board or local agent for the recovery of the rent of land or other property transferred under the said section 4 of this Act, may, from the date of such transfer, be exercised by any trustee, manager or superintendent to whom such transfer is made.

Appointment of Committees.

7. In all cases described in section 3 of this Act the '[State Government] shall once for all appoint one or more committees in every division or district to take the place, and to exercise the powers, of the Board of Revenue and the local agents under the Regulations hereby repealed.

Constitution and duties of committees.

Such committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local agents, except in respect of any property which is specially provided for under section 21 of this Act.

8. The members of the said committee shall be appointed from among persons professing the religion for the purposes of which the mosque, temple or other religious establishment was founded or is

Qualifications of member of committee.

¹ See footnote 4 on p. 371 *supra*.

now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosque, temple or other religious establishment.

The appointment of the Committee shall be notified in the Official Gazette.

Ascertaining
wishes of
persons
interested.

In order to ascertain the general wishes of such persons in respect of such appointment, the ¹[State Government] may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such ¹[State Government].

Tenure of
office.

9. Every member of a committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness ;

Removal.

and no such member shall be removed except by an order of the Civil Court as hereinafter provided.

Vacancies to
be filled.

10. Whenever any vacancy shall occur among the members of a committee appointed as above, a new member shall be elected to fill the vacancy by the persons interested as above provided.

Procedure.

The remaining members of the committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new member by the persons interested as above provided, under rules for elections which shall be framed by the ¹[State Government] ;

and whoever shall be then elected, under the said rules, shall be a member of the committee to fill such vacancy.

When Court
may fill
vacancy.

If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy or may order that the vacancy be forthwith filled up by the remaining members of the committee, with which order it shall then be the duty of such remaining members to comply ; and, if this order be not complied with, the Civil Court may appoint a member to fill the said vacancy.

²[*Explanation*.—In this section “Civil Court” means the principal Court of original civil jurisdiction in the district in which the mosques, temples or religious establishments for which the committee has been appointed or any of them are situate.]

No member
of committee
to be also
trustee, etc.,
of mosque,
etc.

11. No member of a committee appointed under this Act shall be capable of being, or shall act, also as a trustee, manager or superintendent of the mosque, temple or other religious establishment for the management of which such committee shall have been appointed.

¹ See footnote 4 on p. 371 *supra*.

² Ins. by the Religious Endowments (Amendment) Act, 1925 (21 of 1925), s. 3.

12. Immediately on the appointment of a committee as above provided for the superintendence of any such mosque, temple or religious establishment, and for the management of its affairs, the Board of Revenue, or the local agents acting under the authority of the said Board, shall transfer to such committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession of the said Board or local agents, and belonging to the said religious establishment, except as is hereinafter provided for,

On appointment of committee, Board and local agents to transfer property.

and thereupon the powers and responsibilities of the Board and the local agents, in respect to such mosque, temple or religious establishment, and to all land and other property so transferred except as above, and except as regards acts done and liabilities incurred by the said Board or agents previous to such transfer, shall cease and determine.

Termination of powers and responsibilities of Board and agents.

All the powers which might be exercised by any Board or local agent for the recovery of the rent of land or other property transferred under this section may from the date of such transfer be exercised by such committee to whom such transfer is made.

Commencement of powers of committee.

13. It shall be the duty of every trustee, manager and superintendent of a mosque, temple or religious establishment to which the provisions of this Act shall apply to keep regular accounts of his receipts and disbursements in respect of the endowments and expenses of such mosque, temple or other religious establishment ;

Duty of trustee, etc., as to accounts ;

and it shall be the duty of every committee of management, appointed or acting under the authority of this Act, to require from every trustee, manager and superintendent of such mosque, temple or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year ; and every such committee of management shall themselves keep such accounts thereof.

and of committee.

14. Any person or persons interested in any mosque, temple or religious establishment, or in the performance of the worship or of the service thereof, or the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the trustee, manager or superintendent of such mosque, temple or religious establishment or the member of any committee appointed under this Act, for any misfeasance, breach of trust or neglect of duty, committed by such trustee, manager, superintendent or member of such committee, in respect of the trusts vested in, or confided to them respectively ;

Persons interested may singly sue in case of breach of trust, etc.

and the Civil Court may direct the specific performance of any act by such trustee, manager, superintendent or member of a committee.

Powers of Civil Court.

and may decree damages and costs against such trustee, manager, superintendent or member of a committee,

and may also direct the removal of such trustee, manager, superintendent or member of a committee.

Nature of
interest
entitling
person
to sue.

15. The interest required in order to entitle a person to sue under the last preceding section need not be a pecuniary, or a direct or immediate, interest or such an interest as would entitle, the person suing to take any part in the management or superintendence of the trusts.

Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any mosque, temple or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.

Reference to
arbitrators.

16. In any suit or proceeding instituted under this Act it shall be lawful for the Court before which such suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators.

Act X of
1940
applied.

Whenever any such order shall be made, the provisions of ¹[Chapter IV of the Arbitration Act, 1940] shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under ²[section 21 of the said Act].

Reference
under Act
X of 1940.

17. Nothing in the last preceding section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said ³[section 21 of the Arbitration Act, 1940].

Application
for leave to
institute
suits.

18. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit.

* * * * *

The Court, on the perusal of the application, shall determine whether there are sufficient *prima facie* grounds for the institution of a suit, and, if in the judgment of the Court there are such grounds, leave shall be given for its institution.⁵ * * * *

Costs.

If the Court shall be of opinion that the suit has been for the benefit of the trust, and that no party to the suit is in fault, the Court may order the costs or such portion as it may consider just to be paid out of the estate.

¹ Subs. by the Arbitration Act, 1940 (10 of 1940), s. 49(2) and Sch. IV, for "Ch. VI of the Code of Civil Procedure".

² Subs. for "section 312 of the said Code", *ibid.*

³ Subs. for "section 312 of the said code of Civil Procedure", *ibid.*

⁴ The words "The application may be made upon unstamped paper" were rep. by the Court-fees Act, 1870 (7 of 1870), s. 2 and Sch. III.

⁵ The words "In calculating the costs at the determination of the suit, the stamp duty on the preliminary application shall be estimated and shall be added to the costs of the suit", were rep. *ibid.*

19. Before giving leave for institution of a suit, or, after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the trustee, manager or superintendent, or any member of a committee, as the case may be, to file in Court the accounts of the trust, or such part thereof as to the Court may seem necessary.

Court may require accounts of trust to be filed.

20. No suit or proceeding before any Civil Court under the preceding sections shall in any way affect or interfere with any proceeding in a Criminal Court for criminal breach of trust.

Proceedings for criminal breach of trust.

21. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character,

Cases in which endowments are partly for religious and partly for secular purposes.

or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses,

the Board of Revenue, before transferring to any trustee, manager or superintendent, or to any committee of management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses,

and what portion shall be transferred to the superintendence of the trustee, manager or superintendent, or of the committee,

and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said trustee, manager or superintendent, or of the committee, and made payable to the said Board or to the local agents, for secular uses as aforesaid.

In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

22. Except as provided in this Act, it shall not be lawful *¹ *² [the Central Government or any *³ [State] Government], or for any officer of any Government in his official character,

to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple or other religious establishment, or

to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple or other establishment, or

to nominate or appoint any trustee, manager or superintendent thereof, or to be in any way concerned therewith.⁴

* Government not to hold charge henceforth of property for support of any mosque, temple, etc.

¹ The words "after the passing of this Act" were rep. by the Repealing Act, 1874 (16 of 1874).

² Subs. by the A. O. 1948 for "any Govt. in India".

³ Subs. by the A. O. 1950 for "Provincial".

⁴ A proviso to s. 22 has been added to apply only to Bengal by the Bengal Waqf Act, 1934 (Ben. 13 of 1934).

Effect of Act
in respect of
Regulations
therein
mentioned,
and of build-
ings of
antiquity,
etc.

23. Nothing in this Act shall be held to affect the provisions of the ¹Regulations mentioned in this Act, except in so far as they relate to mosques, Hindu temples and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said regulations, to prevent injury to and preserve ²buildings remarkable for their antiquity, or for their historical or architectural value or required for the convenience of the public⁴.

24. ["India".] Rep. by the A. O. 1948.

⁴[THE WASTE LANDS (CLAIMS) ACT, 1863.]

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² See now also the Ancient Monuments Preservation Act, 1904 (7 of 1904).

³ A new section 23-A has been added to apply only to Bengal by the Bengal Waqf Act, 1934 (Ben. 13 of 1934).

⁴ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

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ACT NO. XXIII OF 1863.¹

[10th March, 1863.]

An Act to provide for the adjudication of claims to waste lands.

WHEREAS it is expedient to make special provision for the speedy Preamble.
adjudication of claims which may be preferred to waste lands pro-

¹ For Proceedings relating to the Bill, see Calcutta Gazette, 1863. Supplement, p. 100.

posed to be sold, or otherwise dealt with, on account of ²[the Provincial Government], and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

Provision
for enquiry
in claims
to land,
or objec-
tions to sale
of same.

1. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of ²[the ³[State] Government], or when any objection shall be taken to the sale or other disposition of such land, the Collector of the district in which such land is situate, or other officer performing the duties of a Collector of Land Revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objections.

Procedure in
such cases.

2. The Collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri	See Gazette of India, 1881, Pt. I, p. 1.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. 1, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto 1881, Pt. I, p. 504.
The Porahat estate in the Singbhum District	Ditto 1897, Pt. I, p. 1059.
Kumáon and Garhwál	Ditto 1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.
The Districts of Kámrup, Naugong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Duárs) and Cachar (excluding the North Cachar Hills)	Ditto 1878, Pt. I, p. 533.

It has been declared under s. 3 (b) of the same Act not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt. I, p. 872.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Western Duárs Gazette of India, 1875, Pt. I, p. 497.

The Taráí of the Province of Agra Ditto 1876, Pt. I, p. 505.

It has been repealed in Bombay by the Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom. 9 of 1943).

This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

² Subs. by the A. O. 1937 for "Govt."

³ Subs. by the A. O. 1950 for "Provincial".

rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which, to such Collector or other officer as aforesaid, shall appear to be proper.

If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Notification of conditions.

3. Pending an enquiry into any claim or objection under the last preceding section, the Collector or other officer as aforesaid shall postpone the sale or other disposition of the land;

Postponement of sale pending enquiry, to allow claimant to contest rejection of claim.

and, if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

4. If the Collector or other officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land:

Sale to be stopped if claim appears to be established, but may afterwards be proceeded with.

but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued ¹* * * * to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

5. If the Collector or other officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector;

Delivery to claimant of copy of order of rejection or of sale.

and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other officer as aforesaid, that he intends to contest such order, the order shall be final.

Order when final.

If the claimant or objector shall, within the time allowed, give such notice, the Collector or other officer as aforesaid shall immediately make a report to the ²* * * superior revenue authority ³[to which he is immediately subordinate] and shall forward with with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection;

Report to Board.

¹ The words "by the L. G." were rep. by the Decentralization Act, 1914 (4 of 1914), Sch., Part I.

² The words "Board of Revenue or other" were rep., *ibid.*

³ *Ins., ibid.*

Decision of Board.	and such ^{1*} * authority on the receipt of such report and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the Collector or other officer as aforesaid.
Certification to Court.	If the ^{1*} * authority as aforesaid confirm the order of the Collector or other officer as aforesaid, or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other officer as aforesaid shall certify such order to the Court constituted as hereinafter provided;
Notice to claimant.	and such Court shall forthwith give notice to the claimant or objector;
Decision when final.	and if such claimant or objector shall not ^{2*} * * * * institute a suit in such Court to establish his claim or objection, the order of the ^{1*} * authority aforesaid shall be final.
Power to order suit to try claim admitted by Collector.	6. The ³ [State Government] may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.
Special Court for trying claims.	7. For the investigation and trial of claims under this Act, the ³ [State Government] shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of ⁴ [the ⁵ [State] Government], a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the district, or the officer presiding in the principal Civil Court of original jurisdiction in the district, by whatever name his office may be designated, shall be one.
Power of members.	Any one or more of the members of which such Court shall consist shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit:
Exclusion of officer making original enquiry.	Provided that, whenever the Collector, or other officer, by whom the original enquiry was held, is the officer presiding in the principal Civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.
Notice of constitution	8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which

¹ The words "Board or other" were rep. by the Decentralization Act, 1914 (4 of 1914), Sch., Part I.

² The words "within thirty days from the delivery of such notice from the Court" were rep. by the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Indian Limitation Act, 1908 (9 of 1908).

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Local Government".

⁴ Subs. by the A. O. 1937 for "Govt."

⁵ Subs. by the A. O. 1950 for "Provincial".

shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the district: of Special Courts.

and from the date of the issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted. Claims not cognizable in other Courts.

9. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient. Special Court where held.

10. In every suit instituted under section 5 of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff, and the Collector, or other officer aforesaid, shall appear as defendant on the part of ¹[the ²[State Government]]. Plaintiff and Defendant in suit under section 5.

Either party may appear by pleader or by agent.

Appearance.

Provided that if such other officer as aforesaid be the presiding officer of the principal Civil Court of original jurisdiction in the district, the ³[State Government] shall appoint some other officer to appear as defendant in the case on its behalf. Proviso.

In any suit ordered to be instituted ⁴* * * under section 6 of this Act, the ¹[State Government] by any officer, to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant. Plaintiff and defendant in suits under section 6.

11. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure. Regulation of proceedings.

12. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. Procedure before hearing.

If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a subpoena requiring such witness to attend the Court on that day. Procuring attendance of witnesses.

It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit. Power to require attendance of claimant.

¹ Subs. by the A. O. 1937 for "Govt."

² Subs. by the A. O. 1950 for "Provincial".

³ See footnote 3 on p. 408 *supra*.

⁴ The words "by the L. G." were rep. by the Decentralization Act, 1914 (4 of 1914), Sch., Part I.

Procedure
on hearing.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties;

and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal
or revision.

14. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of
question of
law, etc., to
High Court,
etc.

15. If, on the trial of any suit under this Act, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of Appeal and Revision in the territory in which the land is situate;

When refer-
ence obliga-
tory.

Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of Appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Court may
proceed not-
withstanding
reference;

16. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of Appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred;

but not
make final
order.

but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of Appeal.

Records
of cases
where to be
deposited.

17. The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Limitation
as to claims
to land sold
or dealt
with.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of ¹[the ²[State] Government] as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by ¹[the ²[State] Government] to the purchaser, or otherwise dealt with.

¹ Subs. by the A. O. 1937 for "Govt."

² Subs. by the A. O. 1950 for "Provincial".

If within three years after any lands have been delivered by ¹[the ²[State] Government] to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other officer as aforesaid, within the period limited under section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the district or other officer as aforesaid (with the like provision as aforesaid if such other officer be the presiding officer of the principal Civil Court of original jurisdiction in the district), the defendant in the suit;

Provision for such claims if preferred within time.

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit.

The report of the officer employed to give delivery, or to take possession, on the part of ¹[the ²[State] Government], of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from ³[the ²[State] Government] Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

If claim established, possession not to be given, but compensation.

20. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of ³[the ²[State] Government], and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of ⁴Act VI of 1857 (*for the acquisition of land for public purposes*),

When land sold not absolutely, or not sold, but otherwise dealt with.

and thereupon the ⁵[State Government] shall proceed under the said Act to obtain an upward of the value of such interest.

21. An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of ¹[the ²[State] Government].

Award under two last sections to be in full satisfaction.

¹ Subs. by the A. O. 1937 for "Govt."

² Subs. by the A. O. 1950 for "Provincial".

³ Subs. by the A. O. 1937 for "the Govt."

⁴ See now the Land-acquisition Act, 1894 (1 of 1894), s. 2.

⁵ See footnote 3 on p. 408, *supra*.

Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.

22. Nothing in this Act shall be held to prevent the ¹[State Government] from awarding, to any claimant of waste land sold on account of ²[the ³[State] Government], on proof to the satisfaction of the ¹[State Government] of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such ¹[State Government] may seem proper.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

23. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of ²[the ³[State] Government], and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the ¹[State Government], although not preferred to the Collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the ¹[State Government] may award to such claimant or objector such amount as to such ¹[State Government] may appear to be the value of the interest of such claimant or objector in such land.

Exercise of power of the State Government by the Board of Revenue or the Financial Commissioner.

⁴[23-A. In a ⁵[State] for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the ¹[State Government] under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be.]

24. [Interpretation-clause. Number. Gender.] Rep. by Repealing and Amending Act, 1914 (X of 1914), S. 3 and Sch. II.

THE COMPTOIR D'ESCOMPTE de PARIS ACT, 1864.

ACT No. VIII OF 1864.

[2nd March, 1864.]

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

Preamble.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris"; and whereas the said Company is constituted and established under and by virtue of various

¹ See footnote 3 on p. 408 *supra*.

² Subs. by the A. O. 1937 for "Govt."

³ Subs. by the A. O. 1950 for "Provincial".

⁴ Ins. by the Decentralization Act, 1914 (4 of 1914), Sch., Part I. S. 23-A has been omitted in its application to the U. P., see the U. P. Board of Revenue Act, 1922 (U. P. 12 of 1922).

⁵ Subs. by the A. O. 1950 for "Province".

Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Companies have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded, without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable:" and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned: It is enacted as follows:—

1. Unless the contrary appears from the context, in construing this Act, ¹* * * *

Words importing the singular number include the plural number, Number. and words importing the plural number include the singular number:

Words importing the masculine gender include females:

Gender.

The word "person" includes any Company or Association or body of persons whether incorporated or not. "Person".

¹ The definition of "British India" rep. by the A. O. 1948.

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in the States as the nominal plaintiff or defendant, and shall not abate, &c., on death or removal of such Manager.

2. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in thrust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in ¹[the territories for the time being comprised within Part A States and Part C States (hereinafter referred to as 'the said territories')] and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in ¹[the said territories] of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other, the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in Comptoir.

3. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs by the A. O. 1948 for "British India".

the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice such criminal proceedings.

D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

4. No suit which may be commenced in any Court in ¹[the said territories] against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in ¹[the said territories] of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

Action against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

5. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in anywise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being

Suit by Comptoir on contract not to be defeated because defendant is a partner.

¹ See footnote 1 on p. 414 *supra*.

a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Chief
Manager to
cause a
memorial to
be enrolled
containing
certain
particulars.

6. The Chief Manager of the Agencies in ¹[the said territories] of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in ¹[the said territories] in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in ¹[the said territories], and if the last-mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority
of Chief
Manager to
be authen-
ticated.

7. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed. and the copies of the decrees, acts, deeds, and other documents accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by her Britannic Majesty's Consul General in Paris for the time being.

Memorial
of change
in Chief
Manager or
in facts set
forth in
former
memorial
to be
enrolled.

8. Whenever any new Chief Manager of the Agencies in ¹[the said territories] of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months

¹ See footnote 1 on p. 414 *supra*.

after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

9. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

False declaration an offence under the Penal Code.

10. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in ¹[the said territories] of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue under the Act till after enrolment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

11. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Examined copy to be a proof of contents of memorial.

12. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in ¹[the said territories] against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in ¹[the said territories] belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in ¹[the said territories] belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in ¹[the said territories], nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers

Judgment or order against Chief Manager how to be executed.

¹ See footnote 1 on p. 414 *supra*.

(Schedule A)

reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

No person
to bring
more than
one suit
for the same
demand
against any
Chief
Manager, nor
the Comptoir
against any
other person.

13. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in ¹[the said territories] of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in ¹[the said territories], for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

SCHEDULE (A).

(See section 6.)

Memorial made the day of by the Chief Manager of the Agencies in ¹[India] of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by section VI of the said Act.

Situation of Office of Chief Manager.....
 Situation of other Offices and places in ¹[India].....
 Entire Nominal Capital of the Company.....
 Paid-up Capital.....
 Number of Shares.....
 Amount of each Share.....
 Amount of Capital set aside for operations in ¹[India].....
 Mode in which the same is invested.....
 Name in which the same is invested.....

¹ See footnote 1 on p. 414, *supra*.

(Schedule A & B.)

1864 : Act XV.] Tolls.

I, A. B., Chief Manager of the Agencies in ¹[India] of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Signed) A. B.

Declared, etc., before me, a Judge of the High Court of Judicature
at .

SCHEDULE (B).

(See section 8.)

Memorial made the day of by the Chief Manager of the Agencies in ¹[India] of the Comptoir D'Escompte of Paris, pursuant to act VIII of 1864 of Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte. etc." (*as in foregoing*), setting forth particulars of change or changes as prescribed by section VIII of the said Act.

Name and description of new Chief Manager or

New situation of Office of Chief Manager. or

Other change.....

I, C. D., Chief Manager of the Agencies in ¹[India] of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Signed) C. D.

Declared before me, etc., etc. (*as before*).

²[THE INDIAN TOLLS ACT, 1864.]

ACT No. XV OF 1864.

[24th March, 1864.]

An Act to amend Act VIII of 1851 (*for enabling Government to levy Tolls on Public Roads and Bridges*).

WHEREAS by Act VIII of 1851 (*for enabling Government to levy* Preamble

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons to the Bill which was passed into law as Act 15 of 1864, see Gazette of India, 1864, p. 120, and for Proceedings relating to the Bill, see *ibid*, Supplement, pp. 39, 67, 77, 99 and 119.

Tolls on Public Roads and Bridges) authority was given for the levy of certain rates of toll ¹* * * * ; It is enacted as follows:—

1. [*Schedule of Act VIII of 1851 repealed and another schedule substituted.*] Rep. by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and Sch. I.

Collectors of
tolls may
compound for
tolls leviable
under Act
VIII of 1851
or this Act.

2. Any person entrusted with the management of the collection of tolls under ²Act VIII of 1851 may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of toll ³[authorized to be levied under the said Act VIII of 1851.].

Power to
extend Act.

3. The ⁴[State Government] may extend this ⁵Act to any place in which the said Act VIII of 1851 is in force; and the ⁴[State

This Act has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, in the C. P. and the Sambalpur District by the C. P. Laws Act, 1875 (20 of 1875).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum

See Gazette of India, 1881, Pt. I, p. 504.

The District of Lahaul Ditto 1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Scheduled District of Coorg. See Gazette of India, 1878, Pt. I, p. 45.

The Act has been extended to Ajmer-Merwara along with Act 8 of 1851, see Gazette of India, 1889, Pt. II, p. 562; to the Scheduled Districts in Vizagapatam and Ganjam, see Fort St. George Gazette, 1899, Pt. I, p. 1486, and *ibid.* 1900, Pt. I, p. 1101, respectively; and to the District of Darjeeling, see Calcutta Gazette, 1934, Pt. I, p. 179.

The Act is to be deemed to be and to have been in force in the Punjab, from the 24th March 1864, see the Indian Tolls Act, 1888 (8 of 1888), s. 1, and tolls levied or purporting to have been levied under the Act before the passing of Act 8 of 1888, are to be deemed to have been lawfully levied—see s. 3, *ibid.*

¹ Certain words rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² The Indian Tolls Act, 1851.

³ Subs. for “specified in the schedule to the said Act VIII of 1851 or in the schedule to this Act” by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁴ See footnote 3 on p. 408 *supra*.

⁵ The Act now regulating tolls in the Presidency of Bombay is the Tolls on Roads and Bridges Act, 1875 (Bom. 3 of 1875). That Act repealed Act 8 of 1851 in the Bombay Presidency, see s. 1, and declared that Act 15 of 1864 should be deemed to have been extended thereto as from the 30th July 1864, see s. 2.

Government] of any place in which the said Act VIII of 1851 is not in force may extend the said Act VIII of 1851 and this Act to such place.¹

4. [Interpretation clause. Local Government.] Rep. by the A. O. 1937.

[Schedule.] Rep. by the Devolution Act, 1920 (XXXVIII of 1920), s. 2 and Sch. I.

THE CARRIERS ACT, 1865.

² ACT No. III OF 1865.

[14th February, 1865.]

An Act relating to the rights and liabilities of Common Carriers.

WHEREAS it is expedient not only to enable common carriers to limit their liability for loss of or damage to property delivered to

Preamble.

¹ Act 8 of 1851 and this Act have been extended to Oudh (see Gazette of India, 1865, Pt. I, p. 777), the C. P. (*ibid*, Pt. I, 1871, p. 611) and to the District of Lakhimpur (see Assam Gazette, 1935, Pt. II, p. 1025).

As to the authority of the Provincial Government in any part of the Provinces, not specified in s. 2 of Act 8 of 1851, to which that Act or this Act may be or have been extended, see the Indian Tolls Act, 1888 (8 of 1888), s. 2 (1).

² For Statement of Objects and Reasons of the Bill which was passed into law as Act 3 of 1865, see Gazette of India Extraordinary, dated 1st August 1864 and for Proceedings relating to the Bill, see *ibid*, Supplement, p. 497, and *ibid*, 1865, pp. 51, 64 and 65.

The Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been applied to the Santhál Parganas, by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), s. 31.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri, the Western Hills of Dárjiling, the Dárjiling Tarái and the Damson Sub-division of the Dárjiling District	See Gazette of India, 1881. Pt. I. p. 74.	
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. 1, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Porahat estate in the District of Singbhum	Ditto	1897, Pt. I, p. 1059.
Kumáon and Garhwál	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzápur District	Ditto	1878, Pt. I, p. 383.
Jaunsar Báwar	Ditto	1878, Pt. I, p. 382.
The Scheduled Districts of the C. P.	Ditto	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizgapatam	Ditto	1898, Pt. I, p. 870.
Assam (except the North Lushái Hills)	Ditto	1897, Pt. I, p. 299.

them to be carried but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents ; It is enacted as follows :—

- Short title. 1. This Act may be cited as the Carriers Act, 1865.
- Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context—
- “Common carrier.” “common carrier” denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately :
- “Person.” ¹ “person” includes any association or body of persons, whether incorporated or not.
- 2 * * *
- Carriers not to be liable for loss of certain goods above one hundred rupees in value unless delivered as such. 3. No common carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof.³
- For carrying such property payment may be required at rates fixed by carrier. 4. Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix :
- Proviso. Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.
- The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage. 5. In case of the loss or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such carrier in consideration of such risk as aforesaid.

¹ Cf. definition in s. 3 (42) of the General Clauses Act, 1897 (10 of 1897).

² The paragraph relating to “number” was rep. by the Repealing and Amending Act, 1914 (10 of 1914).

³ The earlier sections extend to India the principle embodied in the Carriers Act, 1830 (11 Geo. IV & I Wm. IV, c. 68). See Statement of Objects and Reasons quoted above.

6. The liability of any common carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice ; but any such carrier, not being the owner of a railroad or tramroad constructed under the provisions of ¹Act XXII of 1863 (to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken) may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

In respect of what property liability of carrier not limited or affected by public notice. Carriers, with certain exceptions, may limit liability by special contract.

²7. The liability of the owner of any railroad or tramroad constructed under the provisions of the said ³Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract ; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Liability of owner of railroad or tramroad constructed under act XXII of 1863, not limited by special contract. In what case owner of railroad or tramroad answerable for loss or damage.

8. Notwithstanding anything hereinbefore contained, every common carrier shall be liable to the owner for loss of or damage to any property delivered to such carrier to be carried where such loss or damage shall have arisen from the ⁴* criminal act of the carrier or any of his agents or servants ⁵[and shall also be liable to the owner for loss or damage to any such property other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants].

Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

9. In any suit brought against a common carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the carrier, his servants or agents.

Plaintiffs, in suits for loss, damage, or non-delivery, not required to prove negligence or criminal act.

¹ See now the Land-Acquisition Act, 1894 (1 of 1894) s. 2.

² S. 7 (so far as it relates to railways) has been rep. by the Indian Railways Act, 1890 (9 of 1890), s. 72.

³ See now the Land-Acquisition Act, 1894 (1 of 1894) s. 2.

⁴ The words "negligence or" rep. by the Carriers (Amendment) Act, 1921 (13 of 1921), s. 2.

⁵ Ins., *ibid.*

Notice of
loss or injury
to be given
within six
months.

¹[10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff.]

State
Government
to add to the
Schedule.

²[11. The ³[State Government] may, by notification in the ⁴[Official Gazette], add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly.]

SCHEDULE.

Gold and silver coin.

Gold and silver in a manufactured or unmanufactured state.

Precious stones and pearls.

Jewellery.

Time-pieces of any description.

Trinkets.

Bills and hundis.

Currency notes of the ⁵[Central Government], or notes of any Banks, or securities for payment of money, English or Foreign..

Stamps and stamped paper.

Maps, prints, and works of art.

Writings.

Title-deeds.

Gold or silver plate or plated articles.

Glass.

China.

Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.

Shawls and lace.

Cloths and tissues embroidered with the precious metals or of which such metals form part.

¹ Ins. by the Indian Carriers Act, 1899 (10 of 1899), s. 2. The original section 10 had been rep. by the Indian Railways Act, 1890 (9 of 1890).

² Ins. by the Carriers (Amendment) Act, 1921 (13 of 1921), s. 3.

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "G. G. in C."

⁴ Subs. by the A. O. 1937 for "Gazette of India".

⁵ Subs. by the A. O. 1937 for "G. of I."

(Schedule.)

1866 : Act XXI.] Converts' Marriage Dissolution.

Articles of ivory, ebony or sandal wood.

¹[Art pottery and all articles made of marble.

Furs.

Government securities.

Opium.

Coral.

Musk, *Itr*, Sandal wood oil, and other essential oils used in the preparation of *itr* or other perfumes.

Musical and scientific instruments.

Feathers.

Narcotic preparations of hemp.

Crude India-rubber.

Jade, Jade-stone and amber.

Gooroochand or Gooroochandani.

Cinematograph films and apparatus.

Zahir Mohra Khatai.]

THE CONVERTS' MARRIAGE DISSOLUTION ACT,

1866.

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4. When convert deserted by his wife may sue for conjugal society.
5. When convert deserted by her husband may sue.
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8. On service of petition, citation to respondent.

¹ Ins. by Notification No. 5299, dated 14th October 1922, see Gazette of India, 1922, Pt. I, p. 1235.

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¹ACT NO XXI OF 1866.

[2nd April, 1866.]

An Act to legalize, under certain circumstances, the dissolution of marriages of * * * Converts of Christianity.

WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of * * * Converts to Christianity deserted or repudiated on religious grounds by their wives or husbands ; It is enacted as follows:—

1. This Act may be cited as the * * * Converts' Marriage Dissolution Act, 1866. Short title.

2. [Commencement of Act. Rep. by the Repealing Act, 1874 (XVI of 1874).

3. In this Act—

Interpreta-
tion-clause.

“ * * * husband ” shall mean a married man domiciled in ³[India], who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew : “Husband.”

“ * * * wife ” shall mean a married woman domiciled in ³[India], “ wife.”

¹ For Statement of Objects and Reasons to the Bill which was passed into law as Act 21 of 1866, see Gazette of India, 1865, p. 59 ; for the Report of the Select Committee, see *ibid*, 1866, p. 163, and for discussions on the Bill, see *ibid*, 1865, Supplement, p. 5, and 1866, Supplement, p. 201.

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by s. 3 of the Laws Local Extent Act, 1874 (15 of 1874).

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri	See Gazette of India, 1881, Pt. I, p. 74.
The District of Dárjiling	Ditto 1886, Pt. I, p. 500.
The Districts of Hazáribagh, Lohárdaga (now the Ranchi) District, see Calcutta Gazette, 1899, Pt. I, p. 44, and Mán- bhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum	Ditto 1881, Pt. I, p. 504.
The Porahat Estate in the Sing- bhum District	See Gazette of India, 1897, Pt. I, p. 1059.
The Scheduled Districts in Gan- jam and Vizagapatam	Ditto 1898, Pt. I, p. 870.
The Scheduled portion of the Mirzápur District	Ditto 1879, Pt. I, p. 383.
Jaunsar Báwar	Ditto 1879, Pt. I, p. 382.
Assam (except the North Lushái Hills)	Ditto 1897, Pt. I, p. 299.
The District of Lahaul	Ditto 1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumáon and Garhwál	See Gazette of India, 1876, Pt. I, p. 606
The Tarái of the Province of Agra	Ditto 1876, Pt. I, p. 505.

² The word “ Native ” omitted by A. O. 1950.

³ Subs. by the A. O. 1950 for “ the Provinces ” which had been subs. by the A. O. 1948 for “ British India ”.

who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess:

"Personal law."

"¹[Personal law" shall mean any law, or custom having the force of law, of any persons domiciled in ²[India] other than Christians, Muhammadans and Jews:

"Month." and "year."

"Month" and "year" shall respectively mean month and year according to the British calendar:

3 * * * * *

When convert deserted by his wife may sue for conjugal society.

4. If a * * * husband change his religion for Christianity, and if in consequence of such change his * * * wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

When convert deserted by her husband may sue.

5. If a * * * wife change her religion for Christianity, and if in consequence of such change her * * * husband for the space of six continuous months desert or repudiate her, she may sue him for conjugal society.

Court in which suit shall be brought.

6. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature the suit shall be commenced in such Court; otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the district in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

7. The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow.

The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition * * * may be amended by permission of the Court.

On service of petition citation to respondent.

8. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

Form of citation.

9. In ordinary cases the citation shall be in the form in the second schedule to this Act, or as near thereto as the circumstances of the case will allow.

But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third schedule to this Act, or as near thereto as the circumstances of the case will allow.

¹ Subs. by the A. O. 1950 for "Native Law".

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

³ The paragraph relating to number was rep. by the Repealing and Amending Act, 1914 (10 of 1914) and the definition of High Court by the A. O. 1937.

⁴ The word "Native" omitted by A.O. 1950.

⁵ The words "shall bear a stamp of two rupees, and," were rep. by the Court-fees Act, 1870 (7 of 1870), Sch. III.

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent ; and the provisions of the Code of Civil Procedure, as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Service of
citation.

11. If the respondent shall not obey such citation and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under section 174 of the Indian Penal Code.

Penalty on
respondent
not obeying
citation.

XLV of 1860.

12. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved—

Points to be
proved on
appearance
of petitioner.

- (1) the identity of the parties:
- (2) the marriage between the petitioner and the respondent:
- (3) that the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:
- (4) the desertion or repudiation of the petitioner by the respondent:
- (5) that such desertion or repudiation was in consequence of the petitioner's change of religion:
- (6) and that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal.

Firt interro-
gation of
respondent.

In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall in his discretion excuse the respondent from such appearance, the interrogation shall be made by commissioners acting under such commission as hereinafter mentioned.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room.

Interroga-
tions by
Judge may
be public
or private.

If any such interrogation take place in open Court, the Judge may so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

15. If the respondent be a female and in answer to the interrogatories of the Judge or commissioners, as case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order

Procedure
when female
respondent
refuses to
cohabit with
petitioner. ↓

Adjournment for a year.

Interview.

adjourning the case for a year, and directing that, in the interim the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Procedure on expiration of adjournment.

Interrogation of respondent

16. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to, and if the points mentioned in section 12 and this section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner ;

Decree.

and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Decree in case of male respondent refusing to cohabit on grounds of petitioner's change of religion.

17. If the respondent be a male and in answer to the interrogatories of the Judge or commissioners, as the case may be, shall refuse to cohabit with the petitioner the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year.

At the expiration of such adjournment, the petitioner shall again appear in Court ; and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid :

Proviso.

Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

Decree if respondent so refuse in case of unconsummated marriage, either party being *impubes* at time of marriage.

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated, and if, in answer to the interrogatories made pursuant to section 13 of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

Liberty to parties to marry again.

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been

dissolved by death, and the issue of any such re-marriage shall be legitimate, any ¹[personal law] to the contrary notwithstanding:

Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

20. In suits instituted under this Act, the Judge shall order a commission to issue to such persons, whether males or females, or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid.

Judge to order commission to issue for examination of exempted persons.

The provisions of the Code of Civil Procedure shall, so far as practicable, apply to commissions issued under this section.

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of marriage and desertion or repudiation of petitioner in consequence of conversion.

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses shall apply in suits instituted under this Act.

Civil procedure Code applied.

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Dismissal of suit if either party under age required by Act, or if parties cohabiting or respondent willing to cohabit.

24. If, at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and, upon proof of the former decree and of such renewed repudiation or desertion, the suit shall recommence at the stage at which it had arrived immediately before the passing of such decree; and after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in section 16 of this Act.

Revival of suit after such dismissal.

¹ Subs. by the A. O. 1950 for "Native law".

Petitioner's
cruelty or
adultery to
bar suit.

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

A suit dismissed under this section shall not be revived.

Male peti-
tioner's co-
habitation
with one of
several wives
to bar suit.

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make all respondents ; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

The provisions as to revival contained in section 24 of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this section.

Dissolution of
marriage not
to affect
status or
right of
children.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children or of any right or interest which they would have had, according to the ¹[personal law] applicable to them, by way of maintenance, inheritance or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to
Court to
award
alimony.

28. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit and also for her maintenance pending the suit.

If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties.

Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal
under Act ;
but Judge
may state
case raising
question
whether
conversion
has dissolved
marriage.

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act ; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a * * * husband or a * * * wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall either of his own motion or on the application of the respondent, state the case and submit it with his own opinion for the decision of the High Court.

¹ Subs. by the A. O. 1950 for "Native law".

² The word "Native" omitted by the A. O. 1950.

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the presidency-towns ; and the petitioner and respondent may appear and be heard in the High Court in person or by advocate or vakil.

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

33. It shall be lawful for the High Court, upon the hearing of any such case, to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded ;

and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

34. Nothing contained in this Act 1* * * * * Saving of
shall be taken to render invalid any marriage of a 2* * * convert Roman
to Roman Catholicism if celebrated in accordance with the rules, rites, Catholic
ceremonies and customs of the Roman Catholic Church 1* * * marriages.

³[35. This Act extends to ⁴[the whole of India except Part B ^{Extent of Act.} States.]]

(See section 7.)

FORM OF PETITION.

Stamp.

To the Judge of the Civil Court of
The

The petition of A. B. of _____ day of _____ 18 .
Sheweth;—

1. That your petitioner was born on or about the _____ day of _____ 18 .

¹ The words and figures "or in Acts Nos. XXV of 1864 and V of 1865" and the words "and no Clergyman of such Church shall be liable to any suit or penalty under the provisions of either of the two Acts last herein before mentioned, for solemnizing any such marriage," rep. by the Repealing Act, 1874 (16 of 1874).

²The word "Native" omitted by the A. O. 1950.

³ Subs. by the A. O. 1948 for the former s. 35.

⁴ Subs. by the A. O. 1950 for "all the Provinces of India".

*The words "Rs. two" printed below the word "stamp" rep. by the Amending Act, 1891 (12 of 1891).

(Schedule.)

2. That your petitioner was on the day of in the year
18 lawfully married to C. D. at

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with
his said wife at aforesaid until the day of 18 .

5. That previous to the day of 18 your
petitioner changed his religion for Christianity, and that on such day he was
baptised and became a member of the Church of .

6. That on the day of 18 [at least six months prior
to the date of the petition], the said C. D. deserted your petitioner, and has
not since resumed cohabitation with him.

7. That such desertion was in consequence of your petitioner's said change
of religion.

8. That there is no collusion nor connivance between your petitioner and
the said C. D.

Your petitioner therefore prays that Your Honour will order the said C. D.
to live and cohabit with your petitioner, or declare that your petitioner's
marriage is dissolved.

A. B.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what
is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

(See section 9.)

FORM OF CITATION IN ORDINARY CASES.

To C. D. of

Whereas A. B. of , claiming to have been lawfully married
to you, the said, C. D., has filed his [or her] petition against you in the Civil
Court of , alleging that you, the said C. D., have deserted him
[or her] for six months in consequence of his [or her] having changed his
[or her] religion for Christianity and praying that, unless you consent to live
and cohabit with him [or her], it may be declared that his [or her] marriage
is dissolved: Now this is to command you that, at the expiration of
days [at least one month] from the date of the service of this on you, you do
appear in the said Court then and there to make answer to the said petition,
a copy whereof, sealed with the seal of the said Court, is herewith served
upon you.

XLV of 1860 And take notice that in default of your so appearing you will be liable to
punishment under section 174 of the Indian Penal Code.

Dated the day of 18 .

(Signed) E. F.,

Judge of the Civil Court of .

(Indorsement to be made after service.)

This citation was duly served by G. H. on the within-named C. D. of
at on the day of 18 .

(Signed) G. H.

1866 : Act XXIII.] *Bombay High Court (Letters Patent).*

THE THIRD SCHEDULE.

(See section 9.)

FORM OF CITATION IN CASE OF RESPONDENT EXEMPT FROM APPEARANCE IN COURT.

To C. D. of
Whereas A. B. of , claiming to have been lawfully married to you, the said C. D. has filed his [or her] petition against you in the Civil Court of , alleging that you, the said C. D., have deserted him [or her] for six months in consequence of his [or her] having changed his [or her] religion for Christianity, and praying that, unless you consent to cohabit with him [or her], it may be declared that his [or her] marriage is dissolved: Now this is to command you that, at the expiration of days [at least one month] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by commissioners duly authorized in that behalf under a commission issued by this Court in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that, in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under section 174 of the Indian Penal Code. XLV of 1860

Dated the day of 18 .

(Signed) E. F.,

Judge of the Civil Court of .

(Indorsement to be made after service.)

This citation was duly served by G. H. on the within-named C. D. of
on the day of 18 .

(Signed) G. H.

¹[THE BOMBAY HIGH COURT (LETTERS PATENT)
ACT, 1866.]

ACT No. XXIII OF 1866.

[17th May, 1866.]

An Act to correct two clerical errors in the ²Letters Patents for the High Court of Judicature for the Presidency of Bombay.

WHEREAS the twenty-second section of the ²Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865, is as follows:—"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at Fort William in Bengal shall have criminal jurisdiction at the date of the publication of these presents ;"

Preamble.

¹ Short title given by the Bombay Short Titles Act, 1921 (2 of 1921). For Proceedings in Council relating to this Act, which was introduced and passed at one sitting, see Gazette of India, 1886, Supplement, p. 255.

² See Gen. R. and O., Vol. I, p. 120.

And whereas it is expedient to correct the two clerical errors in such section which are hereinbefore indicated by italics ;

It is hereby enacted as follows :—

Clause
substituted
for section 22
of revised
Letters
Patent of
Bombay
High Court.

1. In lieu of the said recited section, the following shall be substituted :—

“and we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents.”

¹[THE UNCLAIMED DEPOSITS ACT, 1866.]
ACT No. XXV OF 1866.

[11th July, 1866.]

An Act to transfer to the Government of India certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay²:

* * *

Preamble.

WHEREAS it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras and Bombay, ³* * in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto, having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government; ⁴* * * It is hereby enacted as follows :—

Money
deposited
in High
Courts and
unclaimed

1. All securities and sums of money deposited in the said High Courts ⁵* * * or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras and Bombay, and now or hereafter appearing to have been in such

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897). For Statement of Objects and Reasons to the Bill which was passed into law as Act 25 of 1866, see Gazette of India, 1866, p. 890, and for Proceedings in Council relating to the Bill see *ibid*, Supplement, p. 304.

² The words “and the proceeds of certain estates in the charge of the Administrator General of Bengal” were rep. by the Administrator General’s Act, 1867 (24 of 1867), and the words “and in the Supreme Court of the Straits Settlements” were rep. by the Repealing Act, 1874 (16 of 1874), s. 2 and Sch., Pt. I.

³ The words “and in the Supreme Court of the Straits Settlements” rep. by the Repealing Act, 1874 (16 of 1874), s. 2 and Sch., Pt. I.

⁴ The second cl. of the preamble rep. by the Repealing Act, 1876 (12 of 1876), s. 1 and Sch., Pt. I.

⁵ The words “or Supreme Court of the Straits Settlements” rep. by Act, 16 of 1874.

1866 : Act XXVII.]

Trustees.

deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to ¹[the Government of the ²[State] in which the Court has its principal seat.] for twenty years transferred to Government.

2. [Proceeds of estates administered under order of Supreme Court of Straits Settlements or in charge of Administrator General of Bengal.] Rep. by the Administrator General's Act, 1867 (XXIV of 1867), and the Repealing Act, 1874 (XVI of 1874).

3. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof. Transfer not made pending suits.

4. If any claim shall hereafter be made to any part of the securities, money or proceeds which shall be transferred and ³[paid to any Government] under the provisions of this Act, and if such claim shall, in the case of securities and money transferred and paid under section 1 of this Act, be established to the satisfaction of the High Court * * * from which the transfer shall have been made * * * ⁵[the Government of the ²[State] in which that Court has its principal seat shall pay] to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due⁶ to the claimant * * * * * Repayment on subse-quent establishment of claim.

THE INDIAN TRUSTEES ACT, 1866.

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7. Power to transfer stock or Government securities of deceased persons.

¹ Subs. by the A. O. 1937 for "the G. of I. for the general purposes of Govt.".

² Subs. by the A. O. 1950 for "Province".

³ Subs. by the A. O. 1937 for "paid to the G. of I.".

⁴ Certain words rep. by Act 16 of 1874.

⁵ Subs. by the A. O. 1937 for "the G. of I. shall pay".

⁶ As to the costs of petition under this section, see the Unclaimed Deposits Act, 1870 (5 of 1870).

⁷ The second sentence rep. by the Administrator General's Act, 1867 (24 of 1867).

SECTIONS.

8. High Court may convey estates of minor Trustees and Mortgagees.
9. Contingent rights of minor Trustees and Mortgagees.
10. High Court may convey estate of Trustee out of jurisdiction of Court.
11. High Court may make order where persons hold immoveable property in trust jointly with persons out of jurisdiction.
12. Contingent rights of Trustees.
13. High Court may make order where persons jointly entitled with others out of jurisdiction to contingent right in immoveable property.
14. When uncertain which of several Trustees survived.
15. When uncertain whether last Trustee living or dead.
16. When Trustee dies without heir.
17. Contingent right of unborn Trustee.
18. Power to make order for vesting estate on refusal or neglect of Trustee to convey or release.
19. Power to convey in place of Mortgagee.
20. Power to appoint person to convey in certain cases.
21. When Trustees of stock or Government securities joined with Trustees out of jurisdiction.
22. When Trustee of stock, etc., refuses to transfer.
23. When one of several Trustees of stock, etc., refuses to transfer or receive and pay over dividends.
24. When stock, etc., standing in name of deceased person.
25. Effect of order vesting legal right to transfer stock, etc. Obligation to comply with requisitions of persons invested.
Indemnity.
Termination of powers of person replaced.
26. Effect of order vesting legal right in thing in action.
27. On neglect to transfer stock, etc., for twenty-eight days, order made vesting right to transfer in such person as Court appoints.
28. Similar order on like neglect by executor.
29. Legal right to transfer stock to vest in person appointed by High Court.
Powers of person appointed.
Obligation to comply with his requisitions.
30. Power to make order for transfer or receipt of dividends of stock, etc., in name of minor Trustee.

SECTIONS.

31. When decree made for sale of immoveable property for payment of debts.
32. Holding immoveable property the sale of which has been ordered by High Court.
Order for vesting estate in lieu of conveyance by party to suit in order to carry out sale.
Effect of order.
33. Court to declare what parties are Trustees of immoveable property comprised in suit, and as to interests of persons unborn.
34. Power to direct how right to transfer stock shall be exercised.
35. Power to Court to make order appointing new Trustees.
Powers of new Trustees.
36. Power to Court to vest immoveable property in new Trustee.
37. Power to Court to vest right to sue in new Trustees.
38. Old Trustees not discharged from liability.
39. Who may apply.
40. Application may be by petition.
41. What may be done upon petition.
42. Court may dismiss petition with or without costs.
43. Power to make order in cause.
44. Orders by High Court founded on certain allegations conclusive evidence of matter contained therein.
Powers as to re-conveyance of immoveable property, etc.
45. Trustee of charity.
46. Money of minors and person of unsound mind to be paid into Court.
47. Court may make decree in absence of Trustee.
Decree not effective without service of process.
48. Orders under Act chargeable with same stamp-duty as deeds of conveyance.
49. Costs may be paid out of estate.
50. Enquiry concerning person of unsound mind.
Effect of order.
Postponement of order pending enquiry.
51. Suit may be directed.
52. Indemnity to persons obeying orders under Act.
53. Execution and effect of orders.
54. Short title.
55. [Repealed.]

¹ACT NO. XXVII OF 1866.

[24th October, 1866.]

An Act to consolidate and amend the law relating to the conveyance and transfer of property ²* * * vested in Mortgagees and Trustees, in cases to which English law is applicable.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property ²* * * vested in mortgagees and trustees, in cases to which English law is applicable ; It is hereby enacted as follows :—

1. [Repeal of Act.] Rep. by the Repealing Act, 1870 (XIV of 1870).

Interpretation-clause.

2. ³In this Act, unless there be something repugnant in the subject or context,—

“Immoveable property”.

“immoveable property” shall extend to and include messuages, tenements, hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein :

“Stock”.

“stock” shall mean any fund, annuity or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in ⁵[a Part A State] : 17 & 18
Vict., c. 104.

“Hold” and “holding”.

“hold” and “holding” shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity or expectancy in any immoveable property :

“Contingent right.”

“contingent right” as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an

¹ The Statement of Objects and Reasons for the Bill which was passed into law as Act 27 of 1866 is not published ; for discussions on the Bill, see Gazette of India, 1866, Supplement, pp. 416, 417, 494 and 531.

This Act is mainly founded on “the Trustee Act, 1850” (13 & 14 Vict., c. 60), and “the Trustee Act, 1852” (15 & 16 Vict., c. 55).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum. See Gazette of India, 1881, Pt. I, p. 504.

² The words “in the Provinces” omitted by the A. O. 1950. The words “the Provinces” were subs. by the A. O. 1948 for “British India”.

³ Cf. 13 & 14 Vict., c. 60, s. 2.

⁴ Cf. “the Merchant Shipping Act Amendment Act, 1855” (18 & 19 Vict., c. 91), s. 10. This Act has been rep. by the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 745, Coll. Stat., Vol. II.

⁵ Subs. by the A. O. 1950 for “the Provinces”.

interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained ; also a right of entry, whether immediate or future, and whether vested or contingent :

“convey” and “conveyance,” applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (*to simplify the modes of conveying land in cases to which the English Law is applicable*):

“transfer” shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another :

Geo. 5,
1.

¹[“High Court” means a court which is a High Court for a Part A State.]

“trust” shall not mean the duties incident to an estate conveyed by way of mortgage ; but with this exception, the words “trust” and “trustee” shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person :

“lunatic” shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs :

“person of unsound mind” shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs :

in the case of a will made or an intestacy occurring before the first day of January, 1866, “heir” shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property : and “devisee” shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent :

¹ Subs. by the A. O. 1950 for the definition which had been subs. by the A. O. 1937 for the original definition.

² The day on which the Indian Succession Act, 1865 (10 of 1865), came into force. This Act has been rep. by the Indian Succession Act, 1925 (39 of 1925).

in the case of a will made or an intestacy occurring on or after the first day of January 1866, "heir" shall mean any person claiming an interest in the immoveable property, of a deceased person under the rules for the distribution of an intestate's estate : and "devisee" shall mean any person taking immoveable property under a bequest, and any person other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortgage". "mortgage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money :

"Person". "person" shall include any company or association, or body of persons whether incorporated or not :

2* * * * *

High Court
to have
jurisdiction
in what
cases.

3. The powers and authorities given by this Act to the High Court shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original civil jurisdiction of the said Courts respectively.

High Court
may convey
estates of
lunatic
trustees and
mortgagees;

4. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct ; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

and may
convey
contingent
rights.

5.³ When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct ; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

High Court
may transfer
stock or Gov-
ernment secu-
rities of luna-
tic-trustees
and mortgag-
ees.

6.³ When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities or to anything in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof :

¹ The day on which the Indian Succession Act, 1865 (10 of 1865), came into force. This Act has been rep. by the Indian Succession Act, 1925 (39 of 1925).

² Paragraphs relating to "number" and "gender" rep. by the Repealing and Amending Act, 1914 (10 of 1914).

³ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 3, 4, 5 and 6, respectively.

and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action, upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

7.¹ When any stock or Government securities shall be standing in the name of any deceased person whose executor or administrator is a lunatic or person of unsound mind, or when anything in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

Power to transfer stock or Government securities of deceased persons.

8.² Whenever any minor³ shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct ; and the order shall have the same effect as if the minor trustee or mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

High Court may convey estates of minor trustees and mortgagees.

9.² Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct ; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

Contingent rights of minor trustees and mortgagees.

10.² When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may convey estate of trustee out of jurisdiction of Court.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 3, 4, 5 and 6, respectively.

² Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 7, 8, 9, 10 and 11,

³ For definition of minor, see the Indian Majority Act, 1875 (9 of 1875).

High Court
may make
order where
persons hold
immoveable
property in
trust jointly
with person
out of
jurisdiction.

11.¹ When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct ; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

Contingent
rights of
trustees.

12.¹ When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct ; and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

High Court
may make
order where
persons
jointly
entitled
with others
out of
jurisdiction
to contingent
right in
immoveable
property.

13.² When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as afore-said, or to such last-mentioned person or persons together with any other person or persons ; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

When un-
certain which
of several
trustees
survived.

14.² Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct ; and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance of the property in the same manner for the same estate.

When uncer-
tain whether
last trustee
living or
dead.

15.² Where any one or more person or persons shall have held any immovable property upon any trust, and it shall not be known as to the trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate, as the said Court shall direct ; and the order shall have the same effect as if the last trustee had duly executed a conveyance of the property in the same manner for the same estate.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vica., c. 60), ss. 7, 8, 9, 10 and 11, respectively.

² Cf. the Trustee Act, 1850 (13 & 14 Vict. c. 60), ss. 12, 13, 14, 15 and 16, respectively.

16.¹ When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate, as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the property in the same manner for the same estate.

When trustee dies without heir.

17.¹ When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons, who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

Contingent right of unborn trustee.

18.² In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate, as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

Power to make order for vesting estate on refusal or neglect of trust to convey or release.

19.³ When any person to whom any immoveable property has been conveyed by way of mortgage shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases it shall be lawful for the High Court to make an order vesting such property in such

Power to convey in place of mortgagee.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 12, 13, 14, 15 and 16, respectively.

² Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 2.

³ Cf. "the Trustee Act, 1850" (13 & 14 Vict., c. 60), s. 19.

person or persons, in such manner and for such estate as the said Court shall direct, that is to say,—

when an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found :

when an heir or devisee of such mortgagee shall upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person :

when it shall be uncertain which of several devisees of such mortgagee was the survivor :

when it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee, whether he be living or dead :

when such mortgagee shall have died intestate as to such property and without an heir, or shall have died and it shall not be known who is his heir or devisee :

And the order of the said High Court made in any one of the foregoing cases shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

Power to
appoint
person to
convey in
certain
cases.

20.¹ In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property, or release or dispose of such contingent right ;

and the conveyance, or release or disposition of the person so appointed shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would, in the particular case, have had under the provisions of this Act.

In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any company or society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 20.

make an order directing the secretary or any officer of such company or society at once to transfer or join in transferring the stock to the person or persons to be named in the order ;

and this Act shall be a full and complete indemnity and discharge to all companies or societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

21.¹ When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint.

When trustees of stock or Government securities joined with trustees out of jurisdiction.

When any sole trustee of any stock, Government securities or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

22.² Where any sole trustee of any stock, Government securities or thing in action shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When trustee of stock, etc., refuses to transfer.

23. ²Where any one of the trustees of any stock, Government securities or thing in action shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the direction of the person, absolutely entitled thereto, for the space of twenty-eight days next after a request in writing

When one of several trustees of stock etc., refuses to transfer or receive and pay over dividends.

¹ Cf. the Trustees Act, 1850 (13 and 14 Vict. c. 60), s. 20.

² Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 23, 24, 25 and 26, respectively.

for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other trustee or trustees of the said stock, Government securities or thing in action, or in any person or persons whom the said Court may appoint jointly with such other trustee or trustees.

When stock,
etc., standing
in name of
deceased
person.

24.¹ When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Effect of
order vesting
legal right
transfer
stock, etc.

25.¹ Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers-of-attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order.

Obligation to
comply with
requisitions
of person
invested.

All companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the persons in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made.

Indemnity.

Termination
of powers of
person
replaced.

After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any company or association, or any person having received such notice, to act upon the requisition of the person

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60) ss. 23, 24, 25 and 26, respectively.

in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

26.¹ Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover anything in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly; and thereupon it shall be lawful for the person or persons so appointed, to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

Effect of order vesting legal right in thing in action.

27.² Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover anything in action or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

On neglect to transfer stock etc., for twenty-eight days order made vesting right to transfer in such person as Court appoints.

28.³ When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Similar order on like neglect by executor.

29.⁴ When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly;

Legal right to transfer stock to vest in person appointed by High Court.

and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers-of-attorney, and to perform all acts relating to the transfer of such stock or Government

Powers of person appointed.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 27.

² Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 4.

³ Cf. *ibid.*, s. 5.

⁴ Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 6.

securities into his or their own name or names or otherwise, to the extent and in conformity with the terms of the order.

Obligation to
comply with
his requisitions.

All companies and associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to
make order
for transfer,
or receipt of
dividends, or
stock, etc.,
in name of
minor
trustee.

30. ¹When any minor shall be solely entitled to any stock or Government securities upon any trust it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof.

When any minor shall be entitled jointly with any other person or persons to any stock or Government securities, upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When decree
made for sale
of immove-
able property
for payment
of debts.

31. ² When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act ;

and the High Court is hereby empowered to make an order wholly discharging the contingent right, under the will of such deceased debtor, of any unborn person.

Holding
immoveable
property the
sale of which
has been
ordered by
High Court.

32. ³ When any decree or order shall have been made by the High Court whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein being a party to the suit or proceeding in which such decree or order shall have been made, and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act.

Order for
vesting estate
in lieu of

In every such case it shall be lawful for the High Court, if the said Court shall think it expedient for the purpose of carrying such

¹ Cf. the Trustee Act 1852 (15 and 16 Vict., c. 55) s. 6.

² Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 29. S. 31 rep. in places to which the Transfer of Property Act, 1882 (4 of 1882), extends or is extended—see s. 2 of the latter Act.

³ Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 1.

sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct.

conveyance
by party to
suit in order
to carry out
sale.

Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

Effect of
order

33.¹ Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such property, or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act.

Court to
declare what
parties are
trustees of
immoveable
property
comprised in
suit, and as
to interests
of persons
unborn.

Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of trustees born or unborn.

34.¹ It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to
direct how
right to
transfer stock
shall be
exercised.

35.¹ In all cases in which it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new trustee or new trustees, whether there be any existing trustee or trustees or not at the time of making such order, and, if there be such trustee or trustees, either in substitution for or in addition to him or them.

Power to
Court to
make order
appointing
new trustees.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 30, 31 and 32, respectively.

Powers of
new trustees.

¹The person or persons who upon the making of such order shall be trustee or trustees shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

Power to
Court to vest
immoveable
property in
new trustee.

36.² It shall be lawful for the High Court, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the trustee or trustees, for such estate as the Court shall direct.

Such order shall have the same effect as if the person or persons who, before such order, was or were the trustee or trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to
Court to vest
right to sue
in new
trustee.

37.² It shall be lawful for the High Court, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover anything in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the trustee or trustees.

Old trustees
not dis-
charged from
liability.

38.² Any such appointment by the High Court of new trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing trustee, than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Who may
apply.

39.² An order under any of the hereinbefore contained provisions, for the appointment of a new trustee or new trustees, or concerning any immoveable property, stock or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities or thing in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof, and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by such mortgage.

Application
may be by
petition.

40.² When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), s. 33.

² Cf. *ibid.*, ss. 34, 35, 36, 37 and 40, respectively.

may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court ; and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

41.¹ Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

What may be done upon petition.

42.¹ Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Court may dismiss petition with or without costs.

43.¹ Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Power to make order in cause.

44.¹ Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several trustees, or which of several devisees of a mortgagee, was the survivor, or whether the last trustee, or the heir or last surviving devisee of a mortgagee, be living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order :

Orders by High Court founded on certain allegations conclusive evidence of matter contained therein.

Provided always that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order ; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right to pay any

Powers as to re-conveyance of immoveable property, etc.

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 41, 42, 43, 44 and 45, respectively.

costs occasioned by the order under this Act when the same shall appear to have been improperly obtained.

Trustee of
charity.

45.¹ It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities or thing in action in the trustee or trustees of any charity or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of
minors and
persons of
unsound
mind to be
paid into
Court.

46.² Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or, if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court ;

and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof as to the said Court shall seem reasonable.

Court may
make decree
in absence
of trustee.

47.¹ Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause :

Degree not
effective
without
service of
process.

Provided always that no such decree shall bind, affect or in any wise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs, executors or administrators, for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a trustee as aforesaid.

Orders under
Act charge-
able with
same stamp.

48.³ Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities or thing in action as can

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 41, 42, 43, 44 and 45, respectively.

² Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60), ss. 48 and 49, respectively.

³ Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 13, since rep. by the Statute Law Revision Act, 1892.

only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities or thing in action.

duty as
deeds of
conveyance.

Every such order shall be duly stamped for denoting the payment of the said duty.

49. ¹The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Costs may be
paid out of
estate.

50.¹ Upon any petition being presented under this Act to the High Court, concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs.

Power to
order enquiry
concerning
person of
unsound
mind.

Such order shall have the same effect as the like order made under section 1 of ²Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act.

Effect of
order.

The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

Postpone-
ment of order
pending
enquiry.

51.¹ Upon any petition under this Act being presented to the High Court it shall be lawful for the said Court to postpone making any order upon such petition until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

Suit may be
directed.

52.³ Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Indemnity to
persons obey-
ing orders
under Act.

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Execution
and effect
of orders.

54. This Act may be cited as the Indian Trustee Act, 1866.

Short title.

55. [Application of Act to Straits Settlements.] Rep. by the Repealing Act, 1874 (XVI of 1874).

¹ Cf. the Trustee Act, 1850 (13 & 14 Vict., c. 60) ss. 51, 52 and 53, respectively.

² Act XXXIV of 1858 rep. by the Indian Lunacy Act, 1912 (4 of 1912).

³ Cf. the Trustee Act, 1852 (15 & 16 Vict., c. 55), s. 7.

THE TRUSTEES' AND MORTGAGEES' POWERS ACT, 1866.

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Trustees and Executors.

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¹ ACT No. XXVIII OF 1866.

[24th October, 1866.]

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Preamble.

WHEREAS it is expedient that in cases to which English law is applicable certain powers and provisions usually inserted in settlements, mortgages, wills and other instruments should be made incident to the estates of the persons interested, so as to dispense with the neces-

¹ The Statement of Objects and Reasons of the Bill which was passed into law as Act 28 of 1866 has not been published; for Proceedings in Council relating to the Bill, see Gazette of India, 1866, Supplement, pp. 416, 417, 494 and 531.

This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

West Jalpáiguri, the Western Hills
of Dárjiling, the Dárjiling
Tarái and the Damson Sub-
division of the Dárjiling Dis-
trict

See Gazette of India, 1881, Pt. I, p. 74.

(Powers of Trustees for Sale, etc., and Trustees of renewable Leaseholds.)

sity of inserting the same in terms in every such instrument, and that in such cases trustees should be relieved ; It is enacted as follows:—

1. In the construction of this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

“immoveable property” shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth: “Immoveable property”.

“mortgage” shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged or charged as security for the repayment of money or money's worth lent, and to be reconveyed or released on satisfaction of the debt: “Mortgage”.

“mortgagor” shall be taken to include every person by whom any such conveyance, pledge or charge as aforesaid shall be made: “Mortgagor”.

“mortgagee” shall be taken to include every person to whom or in whose favour any such conveyance, pledge or charge as aforesaid is made or transferred: and “Mortgagee”.

¹[“High Court” means a court which is a High Court ²[for a Part A State.] “High Court”.

Powers of Trustees for Sale, etc., and Trustees of renewable Leaseholds.

2. ³In all cases where, by any, will, deed or other instrument of settlement, it is expressly declared that trustees or other persons Trustees empowered to sell, may

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhūm, and Pargana Dhálbhūm and the Kolhan in the District of Singbhūm . . .

See Gazette of India 1881, Pt. I, p. 504

The Scheduled Districts in Ganjam and Vizagapatam . . .

Ditto 1898, Pt. I, p. 870.

The Scheduled portion of the Mirzápur District . . .

Ditto 1879, Pt. I, p. 383.

Jaunsar Báwar . . .

Ditto 1879, Pt. I, p. 382.

Assam (except the North Lusháí Hills) . . .

Ditto 1897, Pt. I, p. 299.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled District of Lahaul. See Gazette of India, 1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the Scheduled Districts of Kumáon and Garhwál. See Gazette of India, 1876, Pt. I, p. 606.

This Act is based on “the Law of Property Amendment Act, 1859” (22 and 23 Vict., c. 35, and 23 and 24 Vict., c. 145), which has since been rep. by 44 and 45 Vict., c. 41, s. 71, and 45 and 46 Vict., c. 38, s. 64.

¹Subs. by the A. O. 1937 for the original definition.

²Subs. by the A. O. 1950 for “for the purposes of the Government of India Act, 1935”.

³Cf. 23 & 24 Vict., c. 145, ss. 1 and 2, respectively. Ss. 2 and 3 are rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended. See s. 2 of that Act.

(Powers of Trustees for Sale, etc., and Trustees of renewable Leaseholds.)

sell in lots,
and either
by public
auction or
private
contract.

therein named or indicated shall have a power of sale, either generally or in any particular event, over any immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed or other instrument, it shall be lawful for such trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property either together or in lots, and either by public auction or private contract, and either at one time or at several times.

Sale may be
made under
special condi-
tions, and
trustees may
buy in, etc.

3. ¹ It shall be lawful for the persons making any such sale to insert any such special or other stipulations either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale, as they shall think fit ; and also to buy in the property or any part thereof at any sale by auction and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby ;

and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

Trustees
exercising
power of sale,
etc. em-
powered to
convey.

4. ^{2, 3} For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising
from sales to
be laid out in
manner
indicated in
will, etc.

4. ^{2, 3} The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale ;

Until so laid
out, money
to be invested
in Govern-
ment
securities.

and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid :

Provided that if the will, deed or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be

¹ Cf. 23 & 24 Vict., c. 145, ss. 1 and 2, respectively. Ss. 2 and 3 are rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended. See s. 2 of that Act.

² Ss. 4 and 5 rep. in places to which the Indian Trusts Act, 1882 (2 of 1882), extends or is extended. See s. 2 of that Act.

³ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 3, 4 and 11, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

(*Powers of trustees for Sale, etc., and Trustees of renewable Leaseholds. Powers of Mortgagees.*)

paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

*Powers of Mortgagees.*¹

6.² Where any principal-money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators and assigns, shall, at any time after the expiration of one year from the time when such principal-money shall have become payable, according to the terms of the deed, or after any interest on such principal-money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:—

Powers
incident to
mortgages.

1st, a power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2nd, a power to appoint or obtain the appointment of a receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

7.³ Receipts for purchase-money given by the person or persons exercising the power of sale hereby conferred shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase-money.

Receipts for
purchase-
money
sufficient
discharges.

8.³ No such sale as last aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property ;

Notice to be
given before
sale ;

¹ As to the application of ss. 6 to 19 to certain English mortgages, see the Transfer of Property Act, 1882 (4 of 1882), s. 69.

² Cf. the Trustee Act 1860 (23 & 24 Vict., c. 145), ss. 3, 4 and 11 respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), and the Settled Land Act, 1882 (45 & 46 Vict. c. 38).

³ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 12, 13, 14 and 15, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

(Powers of Mortgagees.)

but purchaser
relieved from
inquiry as to
circum-
stances of
sale.

but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damaged by any such unauthorized exercise of such power shall have his remedy in damages against the person or persons selling.

Application
of purchase-
money.

9.¹ The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—

first, in payment of all the expenses incident to the sale or incurred in any attempted sale;

secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and

thirdly, in discharge of all the principal moneys then due in respect of such charge;

and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

Conveyance
to purchaser.

10.¹ The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold for all the estate and interest therein which the person who created the charge had power to dispose of:

Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee-simple of the property comprised therein in cases where the mortgagor could have disposed of such fee-simple at the date of the mortgage.

Owner of
charge may
call for title-
deeds and
conveyance
of legal
estate.

11.² At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of;

and, where the legal estate shall be outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a con-

¹ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 12, 13, 14 and 15, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

² Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 16, 17, 18, 19 and 20, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

(Powers of Mortgagees.)

veyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

12.¹ Any person entitled to appoint or obtain the appointment of a receiver as aforesaid may, from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit.

Appoint-
ment of
receiver.

No person shall be ineligible for the office of receiver merely because he is an officer of the High Court.

13.¹ Every receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

Receiver
deemed to be
the agent of
the
mortgagor,

14.¹ Every receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed receiver, by suit, distress or otherwise in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

Powers of
receiver.

15.¹ Every receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a receiver, and new receivers may be appointed from time to time.

Receiver
may be
removed,
and new
receivers
appointed.

16.² Every receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges and expenses whatsoever, such a commission, not exceeding five per centum on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then five per centum on such gross amount.

Receiver to
receive com-
mission not
exceeding
five per cent

¹ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 16, 17, 18, 19 and 20, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

² Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 21, 22, 23 and 24, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

(Powers of Mortgages. Leases.)

Receiver to insure if required.

17.¹ Every receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

Application of moneys received by him.

18.¹ Every receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any ; and in the next place in payment of all interest accruing due in respect of any principal-money then charged on the property over which he is receiver, or on any part thereof ; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

This part to relate to charges by way of mortgage only.

19.¹ The powers and provisions contained in sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

Restriction on effect of license to alien.

20.² Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall at any time after this Act comes into operation be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified in such license);

and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease or other matter not specifically authorized or made dispunishable by such license, in the same manner as if no such license had been given ; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

¹ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 21, 22, 23 and 24, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

² Cf. the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), s. 1.

(Leases. Rent-charges. Powers.)

21.¹ Where in any lease heretofore granted, or to be hereafter granted there is or shall be a power or condition of re-entry on assigning or underletting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license, or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Restricted operation of partial licenses.

22.¹ Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Apportionment of conditions of re-entry in certain cases.

Rent-charges.

23.¹ The release from a rent-charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Release of part of land charged, not to be an extinguishment.

Powers.

24.¹ A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument

Mode of execution of powers.

¹ Cf. the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), ss. 2, 3, 10 and 12, respectively.

(Powers.)

in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity:

Provided always that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument:

and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

Legatee in trust may raise money by sale, notwithstanding want of express power in will.

25.¹ Where, by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any trustee or trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other;

and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

Powers given by last section extended to survivors, legatees, etc.

26.¹ The powers conferred by the last preceding section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court, to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

Executors to have power of raising money, etc. where there is no sufficient bequest.

27.¹ If any testator who shall have created such a charge as is described in section 25 of this Act shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any trustee or trustees, the executor or executors (if any) for the time being named in such will

¹ Cf. the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), ss. 14, 15 and 16, respectively.

(*Powers. Inheritance. Assignment of Moveables and Terms for Years. Purchasers.*)

shall have the same or the like power of raising the said moneys as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

28.¹ Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by sections 25, 26 and 27 of this Act or any of them shall have been duly and correctly exercised by the person or persons acting in virtue thereof. Purchasers, etc., not bound to enquire as to powers.

Inheritance.

29.¹ In cases of intestacies occurring before the first day of January, 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced, from the person last entitled to the property as if he had been the purchaser thereof. Descent how traced.

¹This section shall be read as part of ²Act No. XXX of 1839 (*for the amendment of the Law of Inheritance*).

Assignment of Moveables and Terms for Years.

30.¹ Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit* directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another. Assignment to self and others.

Purchasers.

31.³ The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage-money shall be payable upon any express or implied trust shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof. Not to be bound to see to the application of purchase-money, etc.

¹ Cf. the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), ss. 17, 19, 20 and 21, respectively.

² The Inheritance Act, 1839 (30 of 1839). Rep., except as to descents before 1866, by the Repealing Act, 1868 (8 of 1868).

³ Cf. the Law of Property Amendment Act, 1859 (22 & 23 Vict., c. 35), s. 23 (The limiting clause "unless the contrary shall be expressly declared by the instrument creating the trust or security" has not been reproduced.)

*(Investment of Trust-funds. Trustees and Executors.)**Investment of Trust-funds.*

On what securities trust-funds may be invested.

32.¹ Trustees having trust-money in their hands which it is their duty to invest at interest shall be at liberty, at their discretion, to invest the same in any Government securities, and such trustees shall also be at liberty, at their discretion, to call in any trust-funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature :

Provided always that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust-fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

Trustees and Executors.

Trustees may apply income of property of minors, etc., for their maintenance.

33.¹ In all cases where any property is held by trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not ;

and such trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen :

Provided always, that it shall be lawful for such trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Provisions for appointment of new trustees on death, etc.

34.¹ Whenever any trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from ²[India], or desire to be discharged from, or

¹ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 25, 26 and 27, respectively. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38). Ss. 32, 33 and 34 are rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended, see s. 2 of that Act.

² See footnote 3 on p. 427 *supra*.

(Trustees and Executors.)

refuse, or become unfit or incapable, to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator, of the last surviving and continuing trustee, or for the retiring trustees, if they shall all retire simultaneously, or for the last retiring trustee, or where there are two or more classes of trustees of the instrument creating the trust, then for the surviving or continuing trustees or trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring trustee shall, if willing to act in the execution of the power, be considered a continuing trustee), by writing to appoint any other person or persons to be a trustee or trustees in the place of the trustee or trustees so dying, or being absent from ¹[India] or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid.

So often as any new trustee or trustees shall be so appointed as aforesaid, all the trust-property (if any) which for the time being shall be vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustee, shall with all convenient speed be conveyed and transferred so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require.

Transfer of
trust-pro-
perty to new
trustees.

Every new trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every trustee appointed by any High Court, either before or after the passing of this Act, shall have the same powers, authorities and discretions, and shall in all respects act as if he had been originally nominated a trustee by the deed, will or other instrument (if any) creating the trust.

Powers, etc.,
of new
trustees.

The Official Trustee may with his consent, and by the order of the High Court, be appointed under this section in any case in which only one trustee is to be appointed and such trustee is to be the sole trustee.

Appointment
of Official
Trustee to be
a trustee.

35.² The power of appointing new trustees hereinbefore contained may be exercised in cases where a trustee nominated in a will has died in the lifetime of the testator.

Appointment
in place of
trustee prede-
ceasing testa-
tor.

36.² The receipts in writing of any trustees or trustee for any money payable to them or him by reason, or in the exercise, of any

Trustees'
receipts to be
discharges.

¹ See footnote 3 on p. 427 *supra*.

² Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 28 and 29. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

Ss. 35 and 36 rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended, see s. 2 of that Act.

(Trustees and Executors.)

trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust-instrument deemed to contain clauses for indemnity and re-imbursement of trustees.

37.^{1, 2} Every deed, will or other instrument creating a trust, either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say,—

“that the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects or defaults, and not for those of each other, nor for any banker, broker or other person with whom any trust-moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument, to re-imburse themselves or himself, or pay or discharge out of the trust-premises all expenses incurred in or about the execution of the trusts of powers of the said deed, will or other instrument.”

Executors may compound, etc.

38.² It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give and execute such agreements, instruments of composition, releases and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

39. [*Trustee, etc., making payment under power-of-attorney, not liable by reason of death of party giving power.*] Rep. by the Powers-of-attorney Act, 1882 (VII of 1882), s. 6.

As to liability of executor or adminis-

40.³ Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a

¹ S. 37 rep. in places to which the Indian Trusts Act, 1882 (2 of 1882) extends or is extended, see s. 2 of that Act.

² Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), ss. 30 and 31. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

³ Cf. the Law of Property Act, 1859 (22 & 23 Vict., c. 35), s. 27.

(Trustees and Executors.)

lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease, as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be), of the estate of the deceased to meet any future liability under the said lease or agreement for a lease.

trator in
respect of
rents, cove-
nants or
agreements.

The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease.

Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

41.¹ In like manner, where an executor or administrator liable as such to the rent, covenants or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance or agreement for a conveyance.

As to liability
of executor,
etc., in
respect of
rents, etc., in
conveyance
on rent-
charge.

¹ Cf. the Law of Property Act, 1859 (22 & 23 Vict., c. 35), s. 28.

(Trustees and Executors.)

The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance.

Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of assets of testator or intestate after notice given by executor and administrator.

42.¹ Where an executor or administrator shall have given such or the like notices as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration-suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets, or a part thereof, as the case may be.

Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof, into the hands of the person or persons who may have received the same respectively.

Trustee, executor, etc., may apply by petition to Judge of High Court for opinion, advice, etc., in management, etc., of trust-property.

43.¹ Any ²[trustee,] executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the ²[management or] administration of the ²[trust-property or] the assets of any testator or intestate.

Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient.

The ²[trustee,] executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such ²[trustee,] executor or administrator in the subject-matter of the said application :

¹ Cf. the Law of Property Act, 1859 (22 & 23 Vict., c. 35), ss. 29, 30 and 31, respectively.

² These words are rep. in places to which the Indian Trusts Act, 1882 (2 of 1882), extends or is extended, see s. 2 of that Act.

(Trustees and Executors. General Provisions.)

Provided, nevertheless, that this Act shall not extend to indemnify any ¹[trustee,] executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such ¹[trustee,] executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction: and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

44.² For the purposes of this Act a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immovable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent: but the estates or interests of the parties to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Tenants for life, etc., may execute powers, notwithstanding incumbrances.

45.³ The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil, or other instrument executed after this Act comes into operation or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in ⁴[Part A States and Part C States] and to cases to which English law is applicable.

Operation of Act.

46. This Act may be called the 'Trustees' and Mortgagees' Powers Act, 1866.

Short title.

47. [*Application of Act to Straits Settlements.*] Rep. by the Repealing Act, 1874 (XVI of 1874).

THE GANGES TOLLS ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
- 1A. Extent.

¹ These words are rep. in places to which the Indian Trusts Act, 1882 (2 of 1882), extends or is extended, see s. 2 of that Act.

² Cf. the Law of Property Act, 1859 (22 & 23 Vict., c. 35), ss. 29, 30 and 31, respectively.

³ Cf. the Trustee Act, 1860 (23 & 24 Vict., c. 145), s. 34. That Act has been rep. by the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict., c. 41), and the Settled Land Act, 1882 (45 & 46 Vict., c. 38).

⁴ See footnote 3 on p. 427 *supra*.

2. Toll not exceeding twelve annas per one hundred maunds chargeable on vessels ascending or descending Ganges.
3. Rules for measurement of burden.
4. [Repealed.]
5. Appointment of Collector of tolls.
6. List of tolls.
7. Person to collect tolls, and receiver to give voucher for same.
8. Payment of tolls how enforced.
9. Power to sue for recovery of tolls.
10. Ascertainment by toll-collector of burden of steamer, flat or boat.
11. Evading payment of tolls.
12. Magistrate to decide disputes respecting tolls.
13. State Government may alter tolls.
14. Power to prohibit construction of bandhels.
15. Penalty for causing obstruction to navigation.
16. Rules relating to navigation.
17. Recovery of fines.

ACT No. I OF 1867¹.

[18th January, 1867.]

An Act to authorize the levy of Tolls for the improvement of the navigation of the Ganges.

Preamble.

WHEREAS it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the river Ganges, * * * * *
* ; It is hereby enacted as follows:—

Interpretation-clause.

1. In construing this Act—

* * * * *

“Master” shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

“Magistrate” shall include any person exercising any of the powers of a Magistrate.

¹ For Statement of Objects and Reasons, see Gazette of India, 1866, p. 1129; and for Proceedings in Council relating thereto, see *ibid*, Supplement, p. 651, and *ibid*, 1867, Supplement, p. 48.

² The words “to be applied for the improvement of the navigation of the said river between Allahabad and Dinapur” rep. by the A. O. 1937.

³ The definition of “Lieutenant-Governor” rep. by the A. O. 1937.

¹[1A. The said Act shall extend only to so much of the "Uttar Pradesh] as on the 18th January, 1867, formed part of the North-Western Provinces of the Presidency of Fort William.] Extent.

2. A toll not exceeding twelve annas per hundred maunds shall be payable, at such place or at one of such places ³[as the "State] Government] shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards which shall pass up or down the Ganges by such place or any one of such places : Toll not exceeding twelve annas per one hundred maunds chargeable on vessels ascending or descending Ganges.

Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

3. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port-dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta. Rules for measurement of burden.

The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act ; (that is to say) half the length in feet at the water-level, of the boat shall be multiplied by the greatest width in feet at the water-level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds.

Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected.

4. ⁵[Application of funds raised under Act.] Rep. by the A. O. 1937.

5. The "[State Government] may appoint any person ⁷[it] may think fit to collect the tolls payable under this Act at any place or places under ⁸[its] government, and may from time to time remove any such person and appoint another person in his stead. Appointment of Collector of tolls.

¹ Ins. by the A. O. 1937.

² Subs. by the A. O. 1950 for "United Provinces".

³ Subs. by the A. O. 1937 for "subject to the govt. of the Lieutenant-Governor as he".

⁴ Subs. by the A. O. 1950 for "Provincial".

⁵ See, however, para. 4 of the India and Burma (Transitory Provisions) Order, 1937, S. 4 read as follows:

"The funds raised by the tolls payable under this Act shall be applicable, at the discretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapur."

⁶ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Lieutenant Governor".

⁷ Subs. by the A. O. 1937 for "he".

⁸ Subs. by the A. O. 1937 for "his".

List of tolls,

6. Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdu languages, and shall also be published thrice in the ¹[Official Gazette].

Person to collect tolls, and receiver to give voucher for same.

7. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf.

The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

Payment of tolls how enforced.

8. If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same ; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by the ²[State Government] in this behalf.

On receipt of such report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat, and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale.

If the toll and also any expenses occasioned by non-payment be not paid or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the steamer, flat or boat, and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat or boat.

Power to sue for recovery of tolls.

9. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid may, in his own name, sue for and recover, on behalf of the ³[State Government] the amount of any tolls payable

¹ Subs. by the A. O. 1937 for "local gazette".

² See footnote 6 on pre-page.

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "G. of I".

to him under this Act, by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto.

10. Upon the refusal or neglect of any owner or master of any steamer, flat or boat liable to pay toll under this Act to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act ;

Ascertain-
ment by
toll-collector
of burden of
steamer, flat
or boat.

or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat, a notice in writing specifying what, in his judgment, is the burden of the steamer, flat or boat ; and the burden specified in such notice shall be deemed to be the real burden of the steamer, flat or boat, and be treated as such for all the purposes of this Act, until the owner or master of the steamer, flat or boat shall give sufficient proof of the true burden thereof, as ascertained under section 3 of this Act.

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon, or in the course of, or at the termination of, any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound.

Evading
payment of
tolls.

If any master of any such steamer, flat or boat shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding two hundred rupees.

12. If any dispute shall arise respecting the liability of any steamer, flat or boat to the payment of toll under this Act, or in respect of the burden of any steamer, flat or boat, or the amount of toll payable, or the amount of any charges on account of any sale under this Act such dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

Magistrate to
decide dis-
putes respect-
ing tolls.

13. The '[State Government] may, from time to time as ²[it] may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified.

State
Government
may alter
tolls.

²[It] may also prescribe a mode or modes of measurement for burden differing from those prescribed in section 3 of this Act: Provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

¹ See footnote 6 on p. 475, *supra*.

² Subs. by the A. O. 1937 for "he".

Power to prohibit construction of bandhels.

14. Whenever, in the opinion of such officer as the ¹[State Government] shall appoint in this behalf, the construction of any bandhel or other contrivance for fishing or for any other purpose, in any part of the Ganges ²[below Allahabad], is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bandhel or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bandhel or other contrivance.

Penalty for causing obstruction to navigation.

15. Any person who shall wilfully disobey any prohibition under the last preceding section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges ²[below Allahabad], or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

Rules relating to navigation.

16. It shall be lawful for the ¹[State Government] from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges ²[below Allahabad], and for regulating the conduct of persons employed for any of the purposes of this Act; and the ¹[State Government] may affix fines as penalties for the infringement of such rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

- (a) for fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any part of the Ganges ²[below Allahabad] at one time or abreast;
- (b) for determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demurrage to be paid by steamers, flats or boats remaining stationary beyond such time;
- (c) for regulating the mode in which, and the place or places at which, tolls are to be levied under this Act;
- (d) for the removal of sunken vessels and obstructions;
- (e) and for the storing and disposal of the cargo of steamers, flats and boats seized under this Act.

Recovery of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by the ³Code of Criminal Procedure ⁴* * *

¹ See Footnote 6 on p. 475, *supra*.

² Subs. by the A. O. 1937 for "between Allahabad and Dinapur".

³ See now ss. 386, 387 and 389 of the Code of Criminal Procedure, 1898 (5 of 1898).

⁴ The words "and may be disposed of as the Lieutenant-Governor shall from time to time direct" rep. by the A. O. 1937.

¹[THE PUBLIC GAMBLING ACT, 1867.]

CONTENTS.

PREAMBLE.

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1. Interpretation-clause.
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4. Penalty for being found in gaming-house.
5. Power to enter and authorise police to enter and search.
6. Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.
7. Penalty on persons arrested for giving false names and addresses.
8. On conviction for keeping a gaming-house, instruments of gaming to be destroyed.
9. Proof of playing for stakes unnecessary.
10. Magistrate may require any person apprehended to be sworn and give evidence.
11. Witnesses indemnified.
12. Act not to apply to certain games.
13. Gaming and setting birds and animals to fight in public streets.
Destruction of instruments of gaming found in public streets.
14. Offences, by whom triable.
15. Penalty for subsequent offence.
16. Portion of fine may be paid to informer.
17. Recovery and application of fines.
18. [*Repealed.*]

²ACT NO. III OF 1867.

[25th January, 1867.]

An Act to provide for the punishment of public gambling and

¹ Short title given by the Amending Act, 1897 (5 of 1897).

² For Statement of Objects and Reasons, see *Gazette of India*, 1866, p. 976; for report of the Select Committee, see *Gazette of India*, 1867, Supplement, p. 44; and for Proceedings in Council, see *Gazette of India*, 1866, p. 662, and *Gazette of India*, 1867, pp. 48 and 52.

the keeping of common gaming-houses in the "[United Provinces, East Punjab, Delhi]"²[and the Central Provinces].

Preamble. WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses "[in the United Provinces, East Punjab, Delhi and the Central Provinces] ;

It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act—

* * * * *

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

* * * * *

Power to extend Act.

2. "[Sections 13 and 17] of this Act shall extend to the whole of the "[said States] and it shall be competent to the "[State Government] whenever "[it] may think fit, to extend, by a notification to be published in three successive numbers of the Official Gazette, all or

The Act was declared to be in force in the tract of land lying between the railway station at Satna and the eastern boundary of the Jabulpore District in the Central Provinces by the Scheduled Districts Act, 1874 (14 of 1874), s. 10 and in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2.

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in—

Coorg See Gazette of India, 1878, Pt. I, p. 373.
The Tarai Parganas Ditto 1876, Pt. I, p. 505.

The Act has been amended in the C. P. by C. P. Act 3 of 1927, in the Punjab by Punjab Act 1 of 1929, and in the U. P. by U. P. Acts 1 of 1917, 5 of 1919, 1 of 1925 and 10 of 1938.

The Act, as amended by U. P. Acts 1 of 1917 and 1 of 1925, has been extended to Ajmer-Merwara by notification, see Gazette of India, 1931, Pt. IIA, p. 125.

¹ Subs. by the A. O. 1948 for "North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh".

² Subs. by the Amending Act, 1903 (1 of 1903), for "the C. P. and British Burma".

³ Subs. by the A. O. 1948 for "in the territories, respectively, subject to the Govts. of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William and of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, and of the Chief Commissioner of the Central Provinces". The last nine words had been subs. by Act 1 of 1903 for "of the Chief Commissioner of the C. P. and of the Chief Commissioner of British Burma".

⁴ Definitions of "Lieutenant-Governor" and "Chief Commissioner" rep. by the A. O. 1937.

⁵ The clauses relating to "Number" and "Gender" rep. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 3 and Sch. II.

⁶ Subs. by the Amending Act, 1891 (12 of 1891) for "ss. 13, 17 and 18".

⁷ Subs. by the A. O. 1950 for "said Provinces" which had been subs. by the A. O. 1948 for "said territories".

⁸ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Lieutenant-Governor or the Chief Commissioner, as the case may be".

⁹ Subs. by the A. O. 1937 for "he".

any of the remaining sections of this Act to any city, town, suburb, railway-station house and place being not more than three miles distant from any part of such station-house within the ¹[States], and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ; and

Penalty for owning or keeping, or having charge of a gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house ; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid ; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place ;

shall be liable to a fine not exceeding two-hundred rupees, or to XLV of 1860. imprisonment of either description,² as defined in the Indian Penal Code, for any term not exceeding three months.³

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,² as defined in the Indian Penal Code, for any term not exceeding one month,³

XLV of 1860

Penalty for being found in gaming-house.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

¹ Subs. by the A. O. 1950 for "Provinces" which had been subs. by the A. O. 1948 for "territories subject to its govt. or administration". The word "its" had been subs. by the A. O. 1937 for "his".

² See s. 53 of the Code.

³ As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act.

Powers to enter and authorise police to enter and search.

5. If the Magistrate of a district¹ or other officer invested with the full powers of a Magistrate,¹ or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the ²[State Government] shall appoint in this behalf to enter with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming ;

and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein ;

and may search or authorise such officer to search all parts of the house, walled enclosure, room or place which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody ;

and may seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place, is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested, by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-pay-

¹ Read District Magistrate and Magistrate of the first class, respectively, see Code of Criminal Procedure, 1898 (5 of 1898), s. 3.

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Lieutenant-Governor or Chief Commissioner".

ment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorised as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal

LV of 1860. Code.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all

prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

13. A police-officer may apprehend without warrant—any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ;

Destruction of instruments of gaming found in public street.

and such police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the 'Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the 'Code of Criminal Procedure

2 * * *

¹ See now the Code of Criminal Procedure, 1898 (5 of 1898).

² The words "and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct" rep. by the A. O. 1937.

18. [Offences under this Act to be "offences" within the meaning of Penal Code.] Rep. by the Repealing Act, 1874 (XVI of 1874), s. 1 and Sch., Pt. I.

ACT NO. IX OF 1867.

[8th February, 1867.]

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris.

WHEREAS it is expedient to make further provision for suits and Preamble
other proceedings by or on behalf of or against the Comptoir
D'Escompte of Paris : It is hereby enacted as follows:—

1. In Act No. VIII of 1864 (to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company), sections 2, 3, 4, 5, 12 and 13, the expressions 'Chief Manager of the Agencies in ¹[the States] of the said Comptoir D'Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said sections may be instituted or carried on. Construction of certain 'sections of Act VIII of 1864.

2. This Act shall be read with and taken as part of the said Act No. VIII of 1864. Act to be read with Act VIII of 1864.

ACT NO. XI OF 1867.

[1st March, 1867.]

An Act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in ²[the Provinces of India].

WHEREAS under or by virtue of Act No. V of 1857 (to confer certain Preamble.
powers on the Oriental Gas Company, Limited), certain powers exercisable only in Calcutta and its environs were conferred on the Oriental Gas Company, Limited; And whereas it is expedient to empower the said Company to extend, with the previous sanction of

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Subs. by the A. O. 1948, for "British India".

Acting Judges.

[1867 : Act XVI.]

the ¹[Central Government], their operations to any other place in ²[the Provinces]; It is hereby enacted as follows:—

1. [Interpretation clause] Rep. by the A. O. 1937.

Power to
extend Act
V of 1857.

2. The ¹[Central Government] may, by notification in the Official Gazette, extend the said Act No. V of 1857, to any place ³[in the States] other than Calcutta and its environs: provided that, in every place to which the said Act shall be so extended, section 3 of the same Act shall be read as if for the words 'Town of Calcutta', the name of the place to which the said Act shall be so extended were substituted: section 7 of the same Act shall be read as if for the words and figures 'Act XIV of 1856', the following words were substituted; (that is to say) 'any law for the time being in force to provide for the conservancy and improvement of such place:' section 22 of the said Act shall be read as if after the words 'Joint Stock Companies' Act, 1856', the following words were inserted; (that is to say) 'the Indian Companies' Act, 1866, or any other Statute or Act for the time being in force relating to Joint Stock Companies'; and as if for the expression 'Supreme Court of Judicature at Fort William', the name of the highest Civil Court of appeal in such place were substituted; and as if for the expression 'the territories of the East India Company', the expression ²[the States]' ⁵* * * were substituted.

⁶[THE ACTING JUDGES ACT, 1867.]

ACT NO. XVI OF 1867.

[1st March, 1867.]

An Act to authorize the making of acting appointments to certain Judicial Offices.

Preamble.

WHEREAS the Governor General of India in Council or the Local Government, as the case may be, is empowered by divers enactments

¹ Subs. by the A. O. 1937 for "L. G."

² Subs. by the A. O. 1948 for "British India".

³ Subs. by the A. O. 1950, for "in the Provinces" which had been subs. by the A. O. 1937 for "within the territories subject to such Govt."

⁴ Subs. by the A. O. 1950, for "the Provinces" which had been subs. by the A. O. 1937, for "British India".

⁵ The words "as defined in this Act" rep. by the A. O. 1948.

⁶ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

The Bill which was passed on the 1st March, 1867, and published as Act No. 16 of 1867, was introduced and passed at one sitting. See the Proceedings in Council published in Gazette of India, 1867, Supplement, p. 180.

This Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:

The Districts of Hazáribágh, Lohárdaga (now the Ranchi Districts, see Calcutta Gazette, 1899, Pt. I, p. 44), and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum—see Gazette of India, 1881, Pt. I, p. 504.

This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

1867 : Act XIX.] *The Darjeeling (High Court's Jurisdiction).*

to appoint the Judges of certain Courts ¹ * * * : And whereas it has been doubted whether he or it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

1. In every case in which the ²[Central Government], or the ³[State Government], as the case may be, has power under any Act or Regulation to appoint a Judge of any Court ⁴ * * *, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the ²[Central Government] or the ³[State Government], as the case may be, shall direct. Every person so appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court.

Power to
appoint
acting
Judges.

2. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first section of this Act.

Certain
enactments
to be
construed
as if they
contained
a clause like
section I of
this Act.

⁵[THE DARJEELING (HIGH COURT'S JURISDICTION)
ACT, 1867.]

ACT No. XIX OF 1867.

[8th March, 1867.]

An Act to make further provision for the Administration of justice in the District of Darjeeling.

WHEREAS it is expedient to make further provision for the administration of justice in the District of Darjeeling ; It is hereby enacted as follows :—

Preamble

1. [Repeal of Act X of 1863.] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

¹ The words "in the Provinces" omitted by the A. O. 1950. The words "the Provinces" had been subs. by the A. O. 1948 for "British India".

² Subs. by the A. O. 1937 for "Governor General of India in Council".

³ Subs. by the A. O. 1950, for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G.".

⁴ The words "in British India" rep. by the A. O. 1948.

⁵ Short title given by the Amending Act, 1903 (1 of 1903), Sch. I.

For Statement of Objects and Reasons, see Gazette of India, 1867, p. 33, and for Proceedings in Council, see *ibid*, 1867, Supplement, pp. 141, 162 and 219.

As to the constitution, jurisdiction and powers of the Calcutta High Court, see the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104) and the Indian High Courts Act, 1865 (28 & 29 Vict., c. 15).

Saráis.

[1867 : Act XXII.

High Court
Fort William,
to exercise
jurisdiction
over
Darjeeling.

2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjeeling, all such jurisdiction and powers as it has and exercises with regard to any other territory.¹

THE SARAIS ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1. [*Repealed.*]
2. Interpretation-clause.
 “Sarái.”
 “Keeper of a Sarái.”
 “Magistrate of the District.”
3. Notice of this Act to be given to keepers of saráis.
4. Registers of saráis to be kept.
5. Lodgers, etc., not to be received in saráis until registered.
6. Magistrate may refuse to register keeper not producing certificate of character.
7. Duties of keepers of saráis.
8. Power to order reports from keepers of saráis.
9. Power to shut up, secure, clear and clean deserted saráis.
10. Taking down or repairing ruinous saráis.
11. Sale of materials of ruinous saráis.
12. Penalty for permitting saráis to be filthy or overgrown.
 Proviso.
13. Power for State Government to make regulations.
14. Penalty for infringing Act or Regulations.
15. Conviction for third offence to disqualify persons from keeping saráis.
16. Nothing in Act to apply to certain saráis.
17. Extent of Act.
 Power to State Government to extend this Act.
18. Short title.

i.e., apparently, outside the local limits of its ordinary original civil jurisdiction.

ACT NO. XXII OF 1867¹.

[15th March, 1867.]

An Act for the regulation of public Saráis and Puraos.

WHEREAS it is expedient to provide for the regulation of public Saráis and Puraos: It is hereby enacted as follows:—

1. [*Repeal of Bengal Regulation XIV of 1807, section 11, clause 5.*
Rep. by the Amending Act, 1891 (XII of 1891).]

2. In this Act, unless there be something repugnant in the subject or context,— Interpreta-
tion-clause.

“Sarái” means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarái, the part so used of such building. It also includes a purao so far as the provisions of this Act are applicable thereto:

“keeper of a sarái” includes the owner and any person having or acting in the care or management thereof: “Keeper of
a sarai”.

“Magistrate of the District” means the chief officer charged with the executive administration of a district in criminal matters whatever may be his designation: “Magistrate
of the
District”.

* * * * *

3. Within six months after this Act shall come into operation, the Magistrate of the District in which any sarái to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such sarái notice in Notice of
this Act to
be given to
keepers of
sarais.

¹ For Statement of Objects and Reasons to the Bill which was passed into law as Act 22 of 1867, see *Gazette of India*, 1867, p. 194, and for Proceedings in Council relating to the Bill, see *ibid*, Supplement, pp. 62, 72, 158, 225 and 232.

As to extent, see note to s. 17, *infra*.

The Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, see *Calcutta Gazette*, 1899, Pt. I, p. 44), and Mámbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum. See *Gazette of India*, 1881, Pt. I, p. 504.

The Tarái of the Province of Agra. See *Gazette of India*, 1876, Pt. I, p. 505.

It has also been extended to the districts of Ganjam and Koraput and to certain partially excluded areas in the Province of Orissa: see Orissa Govt. notifications No. 776-P, dated 23rd June, 1941 and No. 188-P, dated 18th January, 1939, respectively.

² This reference should now be read as “District Magistrate”, see para. 2 of s. 3 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

³ The words “words in the singular include the plural, and *vice versa*” rep. by the Repealing and Amending Act, 1914 (10 of 1914), and the definition of “L. G.” rep. by the A. O. 1937.

writing of this Act, by leaving such notice for the keeper at the sarái ; and shall by such notice require the keeper to register the sarái as by this Act provided.

Such notice may be in the form in the Schedule to this Act annexed or to the like effect.

Registers of
sarais to be
kept.

4. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all saráis within his jurisdiction, and the situation of every such sarái.

No charge shall be made for making any such entry.

Lodgers, etc.,
not to be
received in
sarais until
registered.

5. After one month after the giving of such notice to register as by this Act provided, the keeper of any sarái or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel or other animal, or any vehicle, to halt or be placed in such sarái until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

Magistrate
may refuse
to register
keeper not
producing
certificate of
character.

6. The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a sarái a person who does not produce a certificate of character in such form and signed by such person as the ¹[State Government] shall from time to time direct.

Duties of
keepers of
sarais.

7. The keeper of a sarái shall be bound—

- (1) when any person in such sarái is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police-station:
- (2) at all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the sarái and allow him to inspect the same or any part thereof:
- (3) to thoroughly cleanse the rooms and verandahs, and drains of the sarái, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of, and so often as shall be required by, the Magistrate of the District, or such person as he shall appoint in this behalf:
- (4) to remove all noxious vegetation on or near the sarái, and all trees and branches of trees capable of affording to thieves means of entering or leaving the sarái:
- (5) to keep the gates, walls, fences, roofs and drains of the sarái in repair:

¹ See footnote 3 on p. 487, *supra*.

(6) to provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the ¹[State Government] may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at or placed in the sarái: and

(7) to exhibit a list of charges for the use of the sarái at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

8. The keeper of a sarái shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such sarái during the preceding day or night.

Power to order reports from keepers of sarais.

If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper.

The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

9. If any sarái by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part of the sarái, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same ;

Power to shut up, secure, clear and clean deserted sarais.

and if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the sarái, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the sarái, by the sale of any material found therein.

10. If a sarái or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the sarái, he shall give notice in writing to the keeper of the sarái requiring him forthwith to take down, repair or secure (as the case may be) the sarái or such part thereof as the case may require.

Taking down or repairing ruinous sarais.

¹ See footnote 3 on p. 487, *supra*.

If the keeper do not begin to take down, repair or secure the sarái, or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the sarái as he shall think necessary to be taken down, repaired or otherwise secured.

All the expenses so incurred by the Magistrate shall be paid by the keeper of the sarái, and shall be recoverable from him as hereinafter mentioned.

Sale of materials of ruinous saráis.

11. If any such sarái or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the over-plus (if any) arising from such sale to the owner of such sarái on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

Penalty for permitting saráis to be filthy or overgrown.

12. Whoever, being the keeper of any sarái, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such a state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in section 14 of this Act :

Proviso.

Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said sarái, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

Power for State Government to make regulations.

13. The ¹[State Government] may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same.

All regulations made under this Act and all repeals thereof, and alterations and additions thereto, shall be published in the ²[Official Gazette].

Penalty for infringing Act or regulations.

14. If the keeper of a sarái offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable on conviction before any Magistrate to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues :

¹ Subs. by the A. O. 1950, for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

² Subs. by the A. O. 1937 for "local official Gazette".

Provided always that this Act shall not exempt any person from any penalty or other liability to which he may be subject, irrespective of this Act.

All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under ¹section 61 of the Code of Criminal Procedure.

XXV of
1861.

15. Where a keeper of a sarái is convicted of a third offence under this Act, he shall not afterwards act as keeper of a sarái without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

Conviction for third offence to disqualify persons from keeping saráis.

16. No part of this Act, except section 8, shall apply to any sarái which may be under the direct management of the ²[State Government] or of any Municipal Committee.

Nothing in Act to apply to certain saráis.

17. This Act shall in the first instance extend only to the ³territories under the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal.

Extent of Act.

But it shall be lawful for the ²[State Government], by notification in the ⁴[Official Gazette], to ⁵extend this Act, *mutatis mutandis*, to any other part of ⁶[the territories under its government], except the towns of Calcutta, Madras and Bombay * * *.

Power to State Government to extend this Act.

18. This Act may be called the Saráis Act, 1867.

Short title.

SCHEDULE.

FORM OF NOTICE.

Take notice that on the _____ day of _____ 1867, an Act called the Saráis Act, 1867, was passed, and that, before the _____ day of _____ 18, you, being keeper of a sarái [or purao] within [here state the district over which the jurisdiction of the Magistrate giving the notice extends], must have your

¹ See now sections 386, 387 and 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

² See footnote 1 on pre-page.

³ Now that part of the U. P. known as Agra.

⁴ Subs. by the A. O. 1937 for "local Gazette".

⁵ It has been extended to Oudh. See Notification No. 591, dated 25th July, 1883, in North-Western Provinces and Oudh Gazette, 1883, Pt. I, p. 433.

It has also been extended to the Punjab, see Notification No. 4499, dated 13th December, 1879, in Punjab Government Gazette, 1879, Pt. I, p. 727.

⁶ Subs. by the A. O. 1948 for "British India" which had been subs. by the A. O. 1937 for "the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vict., cap. 106 (an Act for the better Government of India)".

⁷ The words "and the Settlement of Prince of Wales' Island, Singapore and Malacca" rep. by the Amending Act, 1891 (12 of 1891).

Punjab Murderous Outrages. [1867 : Act XXIII.]

sarái [or purao] registered, and that the register is to be kept at [here state where the register is to be kept] and that, if you do not have your sarái [or purao] so registered, you will be liable to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues, and that on your applying to [here give the name and address of the person to keep the register] he will register your sarái [or purao] free of all charge to you.

Dated the day of 18 .

¹[THE PUNJAB MURDEROUS OUTRAGES ACT, 1867.]

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to extend Act to any part of Punjab.
2. Punishment of fanatics murdering or attempting to murder.
3. [Repealed.]
4. Forfeiture of property of fanatics killed in committing outrages punishable under Act.
5. Trial before Sessions Judge or Commissioner.
6. Trial to be with aid of assessors.
7. What the judgment is to specify.
8. Disposal of bodies of criminals.
9. Proceedings to be reported to State Government.
10. No appeal from orders or sentences under Act.
11. Procedure in cases not contemplated by Act.
12. State Government's powers as to confinement of persons under Act.
13. Power of Magistrate as to persons suspected.
14. Exercise of jurisdiction conferred by Act.
15. Power to withdraw cases from operation of Act.
16. Power of High Court to issue circular orders.
Publication of such orders.
17. [Repealed.]

¹ Short title given by the Amending Act, 1903 (1 of 1903).

For Statement of Objects and Reasons, see Gazette of India, dated 5th January 1867; for Proceedings in Council, see *ibid*, Supplement, dated 12th January 1867, pp. 3 and 5; 16th February, p. 73; 23rd February, p. 131; 2nd March, pp. 147 and 154; and 23rd March, pp. 233 and 241.

ACT No. XXIII OF 1867.

[18th March, 1867.]

An Act for the suppression of murderous outrages in certain districts of the Punjab.

WHEREAS in certain districts of the Punjab fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: and whereas the general law of the country is not adequate to suppress such offences; It is hereby enacted as follows:—

Preamble.

1. It shall be lawful for the ¹[State Government] of ²[Punjab], by a proclamation published in the Official Gazette, from time to time to declare any part or parts of the territories under ⁴[its] government to be subject to the operation of all or any of the provisions of this Act, and also, by such proclamation as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which ⁶[it] may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions or of any of them.

Power to extend Act to any part of Punjab.

XLV of 1860.

2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

Punishment of fanatics murdering or attempting to murder.

3. [Offences under the Act to be offences within meaning of Penal Code.] Rep. by the Repealing Act, 1874 (XVI of 1874), s. 1 and Sch., Pt. I.

4. Whenever any fanatic shall be killed in the act of committing any such offence, as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the ⁸[Sessions Judge or Commissioner] who, under the provisions hereinafter contained, would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid to adjudge that the whole of his property shall

Forfeiture of property of fanatics killed in committing outrages punishable under Act.

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Lieutenant Governor".

² Subs. by the A. O. 1950 for "East Punjab" which had been subs. by the A. O. 1948 for "the Punjab".

³ The words "with the previous consent of the Governor-General of India in Council" repealed by the A. O. 1937.

⁴ Subs. by the A. O. 1937 for "his".

⁵ The words "and with such consent" rep. by the A. O. 1937.

⁶ Subs. by the A. O. 1937 for "he".

⁷ Sic. this word should have been changed to "Government" by the A. O. 1950.

⁸ Subs. by the Punjab Murderous Outrages (Amendment) Act, 1877 (9 of 1877), s. 2, for "Commissioner".

be forfeited to Government and to dispose of his body as such
¹[Sessions Judge or Commissioner] shall think fit.

Trial before
 Sessions
 Judge or
 Commis-
 sioner.

5. Subject to the provision contained in section 14 of this Act, any offence triable under this Act shall be tried by the ¹[Sessions Judge or Commissioner] of the division in which it has been committed; and, in respect of all such offences, the ¹[Sessions Judge or Commissioner] shall follow the procedure prescribed for a Magistrate by section 149, Chapter XVII, and the provisions applicable to warrant-cases of the Code of Criminal Procedure:²

Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay, or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and, if the ¹[Sessions Judge or Commissioner] be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

Trial to be
 with aid of
 assessors.

6. Trials under this Act before the ¹[Sessions Judge or Commissioner] shall be conducted with the aid of two or more assessors as members of the Court.

The ¹[Sessions Judge or Commissioner] may appoint such persons other than persons specified in section 405 of the Code of Criminal Procedure² at such time and in such manner as he may think fit to serve as assessors, and no persons shall be exempt, within the meaning of section 406 of the same Code, from serving as such assessors.

The provisions of the Code of Criminal Procedure² shall, save as aforesaid, apply to assessors appointed under this section.

What the
 judgment is
 to specify.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly.

No sentence of death passed under this Act shall require confirmation by any Court.

Disposal of
 bodies of
 criminals.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of as the ¹[Sessions Judge or Commissioner] by whom he was so sentenced shall direct.

¹ Subs. by the Punjab Murderous Outrages (Amendment) Act, 1877 (9 of 1877), s. 2, for "Commissioner".

² See now the Code of Criminal Procedure, 1898 (5 of 1898).

9. The proceedings in every trial held under this Act shall be reported to the ¹[State Government], without unnecessary delay, by the officer before whom such trial shall have been held.

Proceedings to be reported to State Government.

10. Notwithstanding anything contained in the Code of Criminal Procedure,² or "[in any other enactment for the time being in force] no appeal shall lie from any order or sentence under this Act.

No appeal from orders or sentences under Act.

11. If any ⁴[Sessions Judge or Commissioner] in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.³

XLV of 1860.

Procedure in cases not contemplated by Act.

12. The said ¹[State Government] shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the ⁵[Central Government] by any law regarding the confinement of persons charged with or suspected of State offences; and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the ¹[State Government] shall proceed under the authority of this section.

State Government's powers as to confinement of persons under Act.

13. Any person having the full powers of a Magistrate may cause any person, against whom there are in his judgment grounds of proceeding under the last preceding section, to be apprehended, and, after such inquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said ¹[State Government] to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Power of Magistrate as to persons suspected.

14. The jurisdiction conferred by this Act on a ⁴[Sessions Judge or Commissioner] may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the ⁴[Sessions Judge or Commissioner] to whom he may be subordinate, or the said ¹[State Government], shall after the commission of such offence, specially invest with such jurisdiction.

Exercise of jurisdiction conferred by Act.

15. It shall be lawful for the said ¹[State Government] either on ⁶[its] own motion or at the request of ⁷[the High Court of ⁸[Punjab]], from time to time to withdraw any class of cases from the operation of this Act.

Power to withdraw cases from operation of Act.

¹ See footnote 1 on p. 495, *supra*.

² See now the Code of Criminal Procedure, 1898 (5 of 1898).

³ Subs. by the Amending Act, 1891 (12 of 1891), s. 2 (2), Sch. II, Pt. I, for "the Punjab Chief Court Act, 1866".

⁴ Subs. by the Punjab Murderous Outrages (Amendment) Act, 1877 (9 of 1877), s. 2, for "Commissioner".

⁵ Subs. by the A. O. 1937 for "Governor-General of India".

⁶ Subs. by the A. O. 1937 for "his".

⁷ Subs. by the A. O. 1948 for "the Chief Court of the Punjab".

⁸ Subs. by the A. O. 1950 for "East Punjab".

Power of
High court
to issue
circular
orders.

16. With the previous consent of the said ¹[State Government], but not otherwise, the said ²[High Court] may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained.

Publication
of such
orders.

All such orders shall be published in the Official Gazette, and shall be obeyed by the officers aforesaid.

17. ³[*Expiration of Act.*] Rep. by the Amending Act, 1891 (XII of 1891).

4[THE PRESS AND REGISTRATION OF BOOKS ACT, 1867.]

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¹ See footnote 1 on p. 495, *supra*.

² Subs. by the A. O. 1948 for "Chief Court".

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ACT NO. XXV OF 1867.¹

[22nd March, 1867.]

An Act for the regulation of Printing presses and Newspapers, for the preservation of copies of books printed in² [the whole of India except Part B States] and for the registration of such books.

Preamble.

WHEREAS it is expedient to provide for the regulation of printing-

¹ For Statement of Objects and Reasons, see Gazette of India, 1867, p. 191; and for Proceedings in Council, see *ibid*, Supplement, pp. 72, 156 and 299.

This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, to be in force in all the Provinces of India, except the Scheduled Districts.

It has been applied to the Santhál Parganas by the Santhál Parganas Settlement Regulation (3 of 1872), s. 3; to the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and to the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been applied, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to the following Scheduled Districts, namely:—

the Territory of Peint, see Gazette of India, 1887, Pt. I, p. 144 [Peint is now no longer a Scheduled District, and all the enactments in force in the Nasik District of the Bombay Presidency, among them Act 25 of 1867, are now in force in this territory, see the Peint Laws Act, 1894 (Bom. Act 2 of 1894)]:

the Island of Perim, see Gazette of India, 1887, Pt. I, p. 5;

that portion of the Jalpaiguri District which was formerly the Jalpaiguri Sub-division and now forms the western portion of the District of Jalpaiguri and extends as far east as the Teesta River, the hills west of the Teesta River in the District of Darjiling, the Darjiling Tarai, the Damson Sub-division of the Darjiling District, the Districts of Hazaribagh, Lohardaga [now the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44], and Manbhum, and Pargana Dhaibhum and the Kolhán in the District of Singhbhum, see Gazette of India, 1881, Pt. I, pp. 74 and 504; the Western Duars of the Jalpaiguri District, see *ibid*, 1910, Pt. I, p. 1160;

the Districts of Kumáon and Garhwal, see Gazette of India, 1876, Pt. I, p. 605;

the scheduled portion of the Mirzapur District, see Gazette of India, 1879, Pt. I, p. 383;

Pargana Jaunsar Bawar in the Dehra Dun District, see Gazette of India, 1879, Pt. I, p. 382;

the Districts of Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Duars) and Cachar (excluding the North Cachar Hills), see Gazette of India, 1878, Pt. I, p. 533;

the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar Hills in the Cachar District, and the Eastern Duars in the Goalpara District, see Gazette of India, 1897, Pt. I, p. 299.

It has been declared, by notification under s. 3 (b) of the same Act not to be in force in the Scheduled District of Lehaul in the Punjab, see Gazette of India, 1886, Pt. I, p. 301.

It has been extended, by notification under s. 5 of the same Act, to the Tarai District of the Province of Agra, see Gazette of India, 1876, Pt. I, p. 506; to the District of Coorg, see *ibid*, 1918, Pt. II, p. 1730.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

It has been amended in the Punjab by Punjab Act (14 of 1942).

It has been extended to new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

² Subs. by the R. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

presses and of periodicals containing news, for the preservation of ¹ * * copies of every book printed or lithographed in ² [the whole of India except Part B States] and for the registration of such books ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. In this Act, unless there shall be something repugnant in the subject or context,— Interpreta-
tion-clause.

“book” includes every volume, part or division of a volume, “Book”. and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed :

* * * * *

⁴ [“editor” means the person who controls the selection of the Editor. matter that is published in a newspaper :]

“Magistrate” means any person exercising the full powers of a “Magis-
Magistrate”, and includes a “Magistrate of Police” * * * * * : trate”.

⁴ [“newspaper” means any printed periodical work containing “News-
public news or comments on public news :] paper”.

* * * * *

⁹ [“States” means the territories for the time being comprised within Part A States and Part C States.]

2. [Repeal of Act XI of 1835.] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

¹ The word “three” rep. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 1.

² See footnote 2 on pre-page.

³ The definition of “British India” rep. by the A. O. 1937.

⁴ Ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.

⁵ Now Magistrate of the first class, see the Code of Criminal Procedure 1898 (Act 5 of 1898), s. 3.

⁶ Now Presidency Magistrate, see the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 3, and the Code of Criminal Procedure, 1898 (Act 5 of 1898).

⁷ The words “and a Justice of the Peace” rep. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 2.

⁸ Paragraphs relating to “Number” and “Gender” rep. by the Repealing and Amending Act, 1914 (10 of 1914) and the definition of “L. G.” rep. by the A. O. 1937.

⁹ Added by the A. O. 1950.

(Part II.—Of Printing-presses and Newspapers.)

PART II.

OF PRINTING-PRESSES AND NEWSPAPERS.

Particulars
to be printed
on books
and papers.

3. Every book or paper printed within ¹[the States] shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) ²[the name] of the publisher and the place of publication.

Keeper of
printing
press to
make
declaration.

4. No person shall, within ¹[the States], keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction, such press may be :

“I, A. B., declare that I have a press for printing at ———.”

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

Rules as to
publication of
newspapers.

5. No ³[newspaper] shall be published in ¹[the States], except in conformity with the rules hereinafter laid down :

⁴[(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper :]

⁵[(2)] The printer and the publisher of every such ⁶[newspaper] shall appear ⁷[in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides], and shall make and subscribe, in duplicate, the following declaration :

“I, A. B., declare that I am the printer [or publisher, or printer and publisher] of the ⁸[newspaper] entitled——— and printed [or published, or printed and published, as the case may be] at——.”

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

¹ Subs. by the A. O. 1950 for “the Provinces” which had been subs. by the A. O. 1948 for “British India”.

² Ins. by the Amending Act, 1891 (12 of 1891).

³ Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I, for “printed periodical work, containing public news or comments on public news”.

⁴ Ins., *ibid.*

⁵ The original cls. (1), (2) and (3) were re-numbered (2), (3) and (4), respectively, *ibid.*

⁶ Subs. for “periodical work”, *ibid.*

⁷ Subs. for “before the Magistrate within whose local jurisdiction such work shall be published”, *ibid.*

¹[(3)] As often as the place of printing or publication is changed, a new declaration shall be necessary :

¹[(4)] As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave ²[the States], a new declaration from a printer or publisher resident within the said territories shall be necessary.

IX of 1875.

³[Provided that no person who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper.]

6. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. Authentica-
tion of
declaration.

One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or ⁴[other principal Civil Court of original jurisdiction for the place where] the said declaration shall have been made. Deposit.

The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees. Inspection
and supply
of copies.

7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations, ³[or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor], shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, ³[or printed on such newspaper, as the case may be], that the said person was printer or publisher, or printer and Office copy
of declara-
tion to be
prima facie
evidence.

¹ The original cls. (1), (2) and (3) were re-numbered (2), (3) and (4), respectively, by Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.

² See footnote 2 on p. 500, *supra*.

³ Ins. by Act 14 of 1922, s. 3 and Sch. I.

⁴ Subs. by the Press and Registration of Books Act (1867), Amendment Act, 1890 (10 of 1890), s. 3, for "other Court within the local limits of whose ordinary original civil jurisdiction".

publisher (according as the words of the said declaration may be) of every portion of every ¹[newspaper] whereof the title shall correspond with the title of the ¹[newspaper] mentioned in the declaration ²[or the editor of every portion of that issue of the newspaper of which a copy is produced].

New declaration by persons who have signed declaration and subsequently ceased to be printers or publishers.

8. Provided always that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the ¹[newspaper] mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration :—

“I, A. B., declare that I have ceased to be the printer [or publisher, or printer and publisher] of the ¹[newspaper] entitled——.”

Authentication and filing.

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.

Inspection and supply of copies.

The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.

Putting copy in evidence.

In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the ¹[newspaper] therein mentioned.

Person whose name has been incorrectly published as editor may make a declaration before a Magistrate.

²[8A. If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which this name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

¹ Subs. for “periodical work” by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.

² Ins., *ibid.*

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period.]

¹PART III.

DELIVERY OF BOOKS.

9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in ²[the States] after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the ³[State Government] shall, by notification in the Official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say :—

Copies of books printed after commencement of Act to be delivered *gratis* to Government.

(a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and

(b) if within one calendar year from such day the ³[State Govt.] shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the ³[State Government] on the printer, another such copy, or two other such copies, as the ³[State Government] may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the former part of this section shall apply to—

(i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, book prints or other engravings

¹ Subs. for the original Part III (relating to the delivery to the Local Government of all published books, etc., and to the payment therefor and disposal of the copies) by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 4.

² See footnote 1 on p. 502, *supra*.

³ Subs. by the A. O. 1950, for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

(Part III.—Delivery of Books. Part IV.—Penalties.)

belongings to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(ii) any '[newspaper] published in conformity with the rules laid down in section 5 of this Act.

Receipt for
copies
delivered
under
section 9.

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Disposal of
copies
delivered
under
section 9.

11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the "[State Government] shall from time to time determine. Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the "[Central Government].

Copies of
newspaper
printed in
the States
to be
delivered
gratis to
Government.

"[11A. The printer of every newspaper in "[the States] shall deliver at such place and to such officer as the "[State Government] may, by notification in the "[Official Gazette], direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.]

PART IV.

PENALTIES.

Penalty for
printing
contrary to
rule in
section 3.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding '[two thousand] rupees, or by simple imprisonment for a term not exceeding "[six months], or by both.

Penalty for
keeping
press without
making
declaration
required by
section 4.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding '[two thousand] rupees, or by simple imprisonment for a term not exceeding "[six months], or by both.

¹Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I, for "periodical work".

²See footnote 3 on pre-page.

³Subs. by the A. O. 1948 for "British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be".

⁴Ins. by Act 14 of 1922, s. 3 and Sch. 1.

⁵See footnote 2 on p. 500, *supra*.

⁶Subs. by the A. O. 1937 for "local official Gazette".

⁷Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I, for "five thousand".

⁸Subs. for "two years", *ibid*.

(Part IV.—Penalties.)

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding ¹[two thousand] rupees, and imprisonment for a term not exceeding ²[six months].

Punishment
for making
false state-
ment.

15. Whoever shall ³[edit], print or publish any ⁴[newspaper] without conforming to the rules hereinbefore laid down, or whoever shall ¹[edit], print or publish, or shall cause to be ³[edited], printed or published, any ⁵[newspaper], knowing that the said rules have not been observed with respect to ⁶[that newspaper], shall, on conviction before a Magistrate, be punished with fine not exceeding ¹[two thousand] rupees, or imprisonment for a term not exceeding ²[six months], or both.

Penalty
for printing
or publishing
newspaper
without
conforming
to rules.

⁷[16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

Penalty for
not deliver-
ing books
or not sup-
plying printer
with maps.

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.]

¹ Subs. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch., for "five thousand".

² Subs. for "two years", *ibid.*

³ Ins., *ibid.*

⁴ Subs. for "such periodical work as is hereinbefore described", *ibid.*

⁵ Subs. for "such periodical work", *ibid.*

⁶ Subs. for "that work", *ibid.*

⁷ Subs. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 5, for the original s. 16.

(Part IV.—Penalties.—Part V.—Registration of Books.)

Penalty for
failure to
supply copies
of news-
papers
gratis to
Government.

¹[16A. If any printer of any newspaper published in ²[the States] neglects to deliver copies of the same in compliance with section 11A. he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default.]

Recovery of
forfeitures
and disposal
thereof and
of fines.

³[17. Any sum forfeited to the Government under ⁴[section 16] may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorised by the ⁵Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine. XLV of 1861.]

* * * * *

PART V.

REGISTRATION OF BOOKS.

Registration
of memo-
randa of
books.

18. There shall be kept at such office, and by such officer as the ¹[State Government] shall appoint in this behalf a book to be called a Catalogue of Books printed in ²[the States], wherein shall be registered a memorandum of every book which shall have been delivered ³[pursuant to clause (a) of the first paragraph of section 9] of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say):—

- (1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :
- (2) the language in which the book is written :
- (3) the name of the author, translator or editor of the book or any part thereof :
- (4) the subject :
- (5) the place of printing and the place of publication .

¹Ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 3 and Sch. I.

²See footnote 2 on p. 500 *supra*.

³Subs. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 5, for the original s. 17.

⁴Subs. by the Repealing and Amending Act, 1923 (11 of 1923), s. 2 and Sch. I, for "the last foregoing section".

⁵See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

⁶The second paragraph which read "All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the L. G. shall from time to time direct" rep. by the A. O. 1937.

⁷See footnote 3 on p. 505, *supra*.

⁸Subs. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 6, for "pursuant to section 9".

(Part V.—Registration of Books. Part VI.—Miscellaneous.)

- (6) the name or firm of the printer and the name or firm of the publisher :
- (7) the date of issue from the press or of the publication :
- (8) the number of sheets, leaves or pages :
- (9) the size :
- (10) the first, second or other number of the edition :
- (11) the number of copies of which the edition consists :
- (12) whether the book is printed or lithographed :
- (13) the price at which the book is sold to the public : and
- (14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the ¹[copy thereof pursuant to clause (a) of the first paragraph of section 9].

2* * * *

19. The memoranda registered during each quarter in the said Catalogue shall be published in the ³[Official Gazette] as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent ⁴* * * to the ⁵[Central Government] ⁶*.

PART VI.

MISCELLANEOUS.

20. The ⁷[State Government] shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules.

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the ³[Official Gazette].

¹ Subs. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (10 of 1890), s. 6, for "copies thereof in manner aforesaid".

² The last sentence of s. 18, relating to the effect of registration under that section, was rep. by the Indian Copyright Act, 1914 (3 of 1914), s. 15 and Sch. II.

³ Subs. by the A. O. 1937 for "local Gazette".

⁴ The words "to the said Secretary of State, and" rep. by the A. O. 1948.

⁵ Subs. by the A. O. 1937 for "G. of I." which had been subs. for "Secretary to the G. of I. in the Home Department" by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.

⁶ The word "respectively" rep. by the A. O. 1948.

⁷ See footnote 3 on p. 505, *supra*.

(Part VI.—Miscellaneous.)

Kumaon and Garhwal Inoculation. [1868 : Act XXIV.]

Power to
exclude any
class of books
from opera-
tion of Act.

21. ¹[The ²[State] Government may, by notification in the Official Gazette] exclude any class of books ³[or papers] from the operation of the whole or any part or parts of this Act.

22. [Continuance of parts of Act.] Rep. by the Press and Registration of Books Act (1867) Amendment Act, 1890 (X of 1890).

23. [Commencement.] Rep. by the Repealing Act, 1870 (XIV of 1870).

ACT No. XXIV OF 1868.⁴

[1st October, 1868.]

An Act to prohibit the practice of inoculation in Kumaon and Garhwal.

Preamble.

WHEREAS it is expedient to prohibit the practice of inoculation with the small-pox in the districts of Kumaon and Garhwal; It is hereby enacted as follows:—

Penalty for
inoculating.

1. Whoever produces or attempts to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty on
inoculated
person enter-
ing place to
which Act
extends.

2. If any person having been inoculated with the small-pox in a place to which this Act does not extend shall afterwards enter any place to which this Act extends, before the date⁵ of forty days from the date of such inoculation or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

¹ Subs. by the A. O. 1937 for "The G. G. in C. or the L. G. may, by notification in the Gazette of India or the local Gazette, as the case may be".

² Subs. by the A. O. 1950, for "Provincial".

³ Ins. by the Repealing and Amending Act, 1915 (11 of 1915), s. 2 and Sch. I.

⁴ For Statement of Objects and Reasons, see Gazette of India, 1868, p. 1042; for Proceedings in Council, see *ibid*, Supplement, pp. 673, 688 and 931.

⁵ *Sic. Read* "expiry".

1869 : Act I.] *The Oudh Estates.*

3. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted. Reward to
informer.

4. This Act extends only to the Districts of Kumaon and Garhwal. Extent of
Act.

THE OUDH ESTATES ACT, 1869.

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(Part I.—Preliminary.)

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FIRST SCHEDULE (*Orders of the 10th and 19th October, 1859*).SECOND SCHEDULE (*Names of persons referred to in section 4*).¹ACT NO. I OF 1869.

[12th January, 1869.]

An Act to define the rights of Taluqdars and others in certain estates in Oudh, and to regulate the succession thereto.

WHEREAS, after the re-occupation of Oudh by the British Govern- Preamble.
ment in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain taluqdars and others; and whereas doubts may arise as to the nature of the rights of the said taluqdars and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned ; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be cited as the Oudh Estates Act, 1869, and shall extend only to the estates hereinafter referred to. Short title.
Extent of
Act.

2. In this Act, unless there be something repugnant in the subject or context,— Interpreta-
tion-clause.

²["transfer", with its grammatical variations and cognate ex-
pressions, means to make an alienation *inter vivos* whether before or after the commencement of this Act]; Transfer.

"will" means the legal declaration of the intentions of the testa-
tor with respect to his property affected by this Act, which he desires to be carried into effect after his death; "Will"

"codicil" means an instrument made in relation to a will, and
explaining, altering or adding to its dispositions ; it is considered as forming an additional part of the will ; "Codicil".

²"sign", with its grammatical variations and cognate expres-
sions, shall, with reference to a person who is unable to write his "Sign".

¹ For Statement of Objects and Reasons, see Gazette of India, 1867, p. 1134 ; for Proceedings in Council, see *ibid*, Supplement, pp. 614 and 652 ; and *ibid*, 1869, Supplement, p. 60.

² Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), s. 2 (1), for the original definitions: as to the extent to which the new definitions operate retrospectively, see s. 21, *ibid*.

(I.—Preliminary.)

name, include “mark”¹ with its grammatical variations and cognate expressions];

Attest ”. ² [“attest”, with its grammatical variations, when used with reference to any instrument other than a will, means to sign such instrument as a witness in the presence of the executant after having seen the executant sign the same or after having received from the executant a personal acknowledgement of his signature to the same; provided that, where attestation by more than one witness is required, it shall not be necessary that more than one of such witnesses should be present at the same time;

provided also that no particular form of attestation shall be required;]

Registered”. ³ [“registered” means—

(a) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

(b) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances;]

Minor ”. “minor” means any person who shall not have completed the age of eighteen years; and “minority” means the status of such person;

‘Talukdar ”. “talukdar” means any person whose name is entered in the first of the lists mentioned in section 8;

‘Grantee ”. ⁴ [“grantee” means any person whose name is entered in the fifth or sixth of the lists mentioned in section 8];

‘Estate ”. ⁴ [“estate” means—

(a) the taluqa or immoveable property acquired or held by a talukdar or grantee in the manner mentioned in section 3, section 4 or section 5, and

(b) the other immoveable property situated in the ⁵[Uttar Pradesh], in which a talukdar or grantee or his heir or legatee or a transferee referred to in section 14 has a separate, permanent, heritable and transferable right, and in respect of which he has made a declaration in accordance with the provisions of section 32A of this Act;]

¹ Cf. the General Clauses Act, 1897 (10 of 1897), s. 3 (56).

² See footnote 2 on pre-page.

³ Subs. for the original definition by Act 10 of 1885, s. 1. Cr. the definition in the General Clauses Act, 1897 (10 of 1897), s. 3 (49).

⁴ Subs. by the Oudh Estates (Amendment) Act, 1910 (U.P. 3 of 1910), s. 2 (1) for the original definitions: as to the extent to which the new definitions operate retrospectively, see s. 21 *ibid*.

⁵ Subs. by A. O. 1950 for “United Provinces”.

(I.—Preliminary. II.—Rights and Liabilities of Taluqdars and Grantees.)

¹["heir" means a person who has inherited or inherits otherwise than as a widow or a mother, an estate or portion of an estate whether before or after the commencement of this Act;]

¹["legatee" means a person to whom there has been or is bequeathed an estate or portion of an estate whether before or after the commencement of this Act;]

Explanation.—The words "heir" and "legatee" used with reference to a taluqdar or grantee or a person whose name has been inserted in the list referred to in section 31A, sub-section (3), are not restricted to the immediate heirs and legatees of such taluqdar, grantee or person.]

Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

Words
expressing
relation-
ship.

II.—Rights and Liabilities of Taluqdars and Grantees.

3. Every taluqdar with whom a summary settlement of the Government revenue was made between the 1st day of April, 1858, and the 10th day of October, 1859, or to whom, before the passing of this Act and subsequently to the 1st day of April, 1858, a taluqdari sanad has been granted,

Taluqdars to
have herit-
able and
transferable
rights in
their estates.

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such taluqdar when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the Province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

subject to all the conditions affecting the taluqdar contained in the orders passed by the Governor-General of India on the 10th and 19th days of October, 1859, and re-published in the First Schedule hereto annexed, and subject also to all the conditions ²[other than those relating to succession] contained in the sanad under which the estate is held.

Subject to
certain con-
ditions.

¹ Subs. by the Oudh Estates (Amendment) Act, 1910 (U P. 3 of 1910), s. 2 (1), for the original definitions. As to the extent to which the new definitions operate retrospectively, see *ibid.* s. 21.

² Ins. by s. 3, *ibid.* As to the extent to which the amendment operates retrospectively, see s. 21, *ibid.*

(II.—Rights and Liabilities of Taluqdars and Grantees.)

¹[*Explanation.*—Notwithstanding anything contained in the Crown Grants Act, 1895, the conditions of the sanad relating to succession, in so far as they are inconsistent with the provisions of this Act, shall not apply to the estate.] XV of 1895.

Rights and liabilities of persons named in second schedule.

4. Every person whose lands the proclamation issued in Oudh in the month of March, 1858, by order of the Governor-General of India specially exempted from confiscation, and whose names are contained in the Second Schedule hereto annexed, shall be deemed to possess, in the lands for which such person executed a kabuliyat between the 1st day of April, 1858, and the 1st day of April, 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section 3; and he shall be deemed to hold the same subject to all the conditions affecting taluqdars which are referred to in the said section, and to be a taluqdar for all the purposes of this Act.

Grantees' rights and liabilities.

5. Every grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a taluqdar possesses and is subject to, under section 3, in respect of his estate.

Saving of certain redemption-suits.

6. Nothing in sections 3, 4 and 5, or in the said orders, or in any sanad shall be deemed to bar a suit for redemption—

- (a) where the instrument of mortgage was executed on or after the 13th day of February, 1844, and fixed no term within which the property comprised therein might be redeemed, or
- (b) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the 13th day of February, 1856.

Heirlooms.

7. If a taluqdar or grantee, or any heir or legatee of a taluqdar or grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the district wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee.

¹ See footnote 2 on pre-page.

III.—Lists of Taluqdars and Grantees.

8. Within six months after the passing of this Act, the ¹[State Government] subject to such instructions as ²[it] may receive from the ³[Central Government], shall cause to be prepared six lists, ^{Preparation of lists of taluqdars and grantees.} namely:—

first, a list of all persons who are to be considered taluqdars within the meaning of this Act;

second, a list of the taluqdars whose estates, according to the custom of the family on and before the 13th day of February, 1856, ordinarily devolved upon a single heir;

third, a list of the taluqdars, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture ;

fourth, a list of the taluqdars to whom the provisions of section 23 are applicable;

fifth, a list of the grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

sixth, a list of the grantees to whom the provisions of section 23 are applicable.

9. When the lists mentioned in section 8 shall have been approved ^{Publication of lists.} by the ¹[State Government], they shall be published in the ⁴[Official Gazette]. After such publication the first and second of the said lists shall not, except in the manner provided by section 30 or section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

If, at any time after the publication of the said lists, it appears ^{Supplement-ary list.} to the ³[State Government] that the name of any person has been

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Chief Commissioner of Oudh".

² Subs. by the A. O. 1937 for "he".

³ Subs. by the A. O. 1937 for "Governor General of India in Council".

⁴ Subs. by the A. O. 1937 for "Gazette of India".

⁵ Subs. by the A. O. 1950 for "Provincial Government". These words were subs. by the A. O. 1937 for "L. G." which had been subs. by the Devolution Act, 1920 (38 of 1920), for "Governor General of India in Council".

(III.—*Lists of Taluqdars and Grantees.* IV.—*Powers of Taluqdars and Grantees to transfer and bequeath.*)

wrongly omitted from or wrongly entered in any of the said lists, the ¹[State Government] may order the name to be inserted in the proper list, and such name shall be published in the ²[Official Gazette] in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons named in list to be deemed taluqdars or grantees.

10. No persons shall be considered taluqdars or grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such taluqdars or grantees.

IV.—*Powers of Taluqdars and Grantees to transfer and bequeath.*

Taluqdars and grantees may transfer and bequeath.

11. Subject to the provisions of this Act, and to all the conditions ³[other than those relating to succession] under which the estate was conferred by the British Government, every taluqdar and grantee, and every heir and legatee of a taluqdar and grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his lifetime, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

¹ Subs. by the A. O. 1950 for "Provincial Government". These words were subs. by the A. O. 1937 for "L. G." which had been subs. for "said G. G. in C." by the Devolution Act, 1920 (38 of 1920).

² Subs. by the A. O. 1937 for "local official Gazette" which had been subs. for "Gazette of India" by Act 38 of 1920.

³ Ins. by s. 4 of the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910): as to the extent to which this amendment operates retrospectively, see s. 21, *ibid.*

(IV.—Powers of Taluqdars and Grantees to transfer and bequeath.)

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the transferor or testator, is void.

12. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the lifetime of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom if he attains full age, the thing transferred or bequeathed is to belong. Rule against perpetuity.

¹[13. (1) No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee referred to in section 14, and no heir or legatee of such transferee, shall have power to give his estate, or any portion thereof, or any interest therein— Procedure relating to transfers by gift.

(a) to any person who would have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the donor died intestate as to his estate at the time when the gift took effect,

except by a registered instrument, signed by the donor and attested by two or more witnesses ;

(b) to any person other than a person mentioned in clause (a), except by an instrument signed by the donor and attested by two or more witnesses not less than three months before his death and presented for registration within one month from the date of its execution and registered.

(2) No gift made under sub-section (1) shall be valid unless followed, within six months from the date of execution of the instrument of gift, by delivery by the donor, or his representative in interest, of possession of the property comprised therein.]

²[13A. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee referred to in section 14, and no heir or legatee of such transferee, shall have power to bequeath his estate, or any portion thereof or any interest therein— Procedure relating to bequests.

(1) (a) to a person who would have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the person so bequeathing died intestate as to his estate, at the time when the bequest took effect,

(b) to his daughter,

(c) to a son of his daughter, or

(d) to a younger son,

except by a will duly executed and attested ;

¹Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), s. 2 for the original s. 13.

²Ins., by s. 7, *ibid.*

(IV.—Powers of Taluqdars and Grantees to transfer and bequeath.
V.—Transfers and Bequests.)

- (2) to a person who might, in the absence of other heirs, have succeeded to such estate, portion or interest under the provisions of this Act applicable to such estate, had the person so bequeathing died intestate as to his estate, at the time when the bequest took effect.

except by a will duly executed and attested not less than three months before the death of the testator and presented for registration within one month from the date of its execution and registered:

- (3) to any person other than a person mentioned in clauses (1) and (2), except by a will duly executed and attested not less than three months before the death of the testator and registered according to the law for the time being in force relating to the registration of assurances, but presented for such registration within one month from the date of its execution.]

V.—Transfers and Bequests.

Result of
transfer or
bequest of
estate to
taluqdars or
heirs.

¹[14. If any taluqdar or grantee, or his heir or legatee, shall heretofore have transferred or bequeathed, or if any taluqdar or grantee, or his heir or legatee, shall hereafter transfer or bequeath the whole or any portion of his estate—

(a) to another taluqdar or grantee, or his heir or legatee, or

(b) to any of the persons mentioned in clauses (1) and (2) of section 13A,

the transferee or legatee and his heirs and legatees, shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator:

Provided that, if the transferee or legatee had or has, at the time when the transfer or bequest took or takes effect, an estate, the succession to which was or is governed by the rules contained in section 22, the transferee or legatee and his heirs and legatees shall hold such property subject to those rules.]

Result of
transfer or
bequest to
persons out
of line of
succession.

¹[15. If any taluqdar or grantee, or his heir or legatee, shall heretofore have transferred or bequeathed, or if any taluqdar or grantee, or his heir or legatee, shall hereafter transfer or bequeath the whole or any portion of his estate to any person who did not

¹ Subs. by the Oudh Estates (Amendment) Act, 1910 (U. P. 3 of 1910), for the original section.

(V.—*Transfers and Bequests.* VI.—*Testamentary Succession.*)

at the time when the transfer or bequest took effect belong to any of the classes specified in section 14, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a taluqdar or grantee, heir or legatee.]

¹[16. No transfer, otherwise than by gift, of any estate, or of any portion thereof, or of any interest therein, made by a taluqdar or grantee, or by his heir or legatee, or by a transferee mentioned in section 14, or by his heir or legatee, under the provisions of this Act, shall be valid unless made by a registered instrument signed by the transfer and attested by two or more witness.] Procedure relating to transfers otherwise than by gift.

17. [Further requisites to validity of gifts inter vivos.] Rep. by the Oudh Estates (Amendment) Act, 1910 (U. P. Act IIII of 1910), s. 10.

¹[18. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee mentioned in section 14, and no heir or legatee of such transferee, shall have power to give his estate, or any portion thereof, or any interest therein, to religious or charitable uses, except by an instrument of gift signed by the donor and attested by two or more witnesses not less than three months before his death and presented for registration within one month from the date of its execution and registered.] Procedure relating to gifts to religious or charitable uses.

VI.—*Testamentary Succession.*

19. Sections 49, 50, 51, 54, 55 and 57 to 77 (both inclusive), and sections 82, 83, 85 and 88 to 98 (both inclusive), of the Indian Succession Act (No. X of 1865)², shall apply to all wills and codicils made by any taluqdar or grantee, or by his heir or legatee, ³[or by any transferee mentioned in section 14, or by the heir or legatee of such transferee] under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein: Provided that marriage shall not revoke any such will or codicil: Provided also that nothing herein contained shall affect wills made before the passing of this Act. Sections of Succession Act applied to wills of taluqdars.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

¹ Subs. by the Oudh Estates (Amendment) Act, 1910 (U.P. 3 of 1910), for the original section.

² See now the corresponding sections of the Indian Succession Act, 1925 (39 of 1925).

³ Ins. by the Oudh Estates (Amendment) Act, 1910 (U.P. 3 of 1910), s. 12.

(VI.—Testamentary Succession. VII.—Intestate Succession.)

Bequests to religious and charitable uses.

20. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee having a child, parent, brother, unmarried sister, or a nephew being the naturally born son of a brother of such taluqdar or grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

VII.—Intestate Succession.

"Son",
"descendants",
"brother",
"male",
"agnate",
"widow",
defined.

Special rules of succession to intestate taluqdars and grantees.

21. In the next following section, unless where there is something repugnant in the context, the words "son", "descendants",¹ ["brother" and "male agnate"] apply only to *najib-ul-tarfain*, and the word "widow" applies only to a woman belonging to the *ahl-i-bradari* of her deceased husband.

²[22. If any taluqdar or grantee whose name shall be inserted in the second, third or fifth of the lists mentioned in section 8, or his heir or legatee, or if any taluqdar, grantee, heir or legatee whose name shall be inserted in the list referred to in section 31A, subsection (3), or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, namely:—

- (1) to the eldest son of such taluqdar or grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased;
- (2) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of such eldest son, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;
- (3) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his father's lifetime without leaving male lineal descendants, then to the second and every other son of the said taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;
- (4) or in default of such son or his male lineal descendants, then to such person as the said taluqdar or grantee, heir or legatee, shall have adopted and his male lineal descendants, subject as aforesaid;

¹ Subs. by s. 13 of the Oudh Estates (Amendment) Act, 1910 (U.P. 3 of 1910), for "daughter and brother".

² Subs. by s. 14, *ibid.*, for the original s. 22.

(VII.—*Intestate Succession.*)

- (5) or in default of such adopted son, or his male lineal descendants, then to the eldest and every other brother of such taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, brothers of the whole blood and their descendants being preferred to brothers of the half blood and their descendants, subject as aforesaid;
- (6) or in default of any such brother, or his male lineal descendants, then to the widow of the deceased taluqdar or grantee, heir or legatee, for her lifetime only; or, if there be more widows, than one, to the widow first married to such taluqdar or grantee, heir or legatee, for her lifetime only;
- (7) and on the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted, and his male lineal descendants, subject as aforesaid;

provided that, after the expiration of six months from the commencement of this Act such consent shall be expressed by means of a registered instrument or by means of a will or codicil, executed and attested in the manner required by this Act;

- (8) or on the death of such first married widow and in default of a son adopted by her with such consent as aforesaid, and his male lineal descendants, then to the other widow, if any, of such taluqdar or grantee, heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent as aforesaid, and his male lineal descendants; or in default of such adopted son, then to the other surviving widows in the order of their respective marriages, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;
- (9) or in default of any such widow or any such adopted son or any such male lineal descendants, then to the mother of the deceased taluqdar or grantee, heir or legatee, for her lifetime only;

Explanation.—In this clause the word “mother” does not include a stepmother; and in the case where the deceased was an adopted son, it means that wife or widow of the father who joined in or made the adoption, or if the adoption was made by the father alone

(VII.—Intestate Succession.)

and there are at the time of the death of the deceased more widows than one, it means the one who was first married and, on her death, the other surviving widows in the order of their respective marriages in succession;

- (10) or in default of or on the death of such mother, then to the nearest male agnate according to the rule of lineal primogeniture, subject as aforesaid;
- (11) or in default of any such agnate, then to such person as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such taluqdar or grantee, heir or legatee, are subject ;

provided that, when there are more persons than one so entitled, the estate shall descend to a single person according to the following rules, that is to say:—

- (i) where among such persons some are connected by blood relationship and some by reason of marriage, the blood relations shall exclude the relations by marriage;
- (ii) where among such persons some are related by the whole blood and some by the half blood, those related by the whole blood shall exclude those related by the half blood;
- (iii) where, subject to the provisions of rules (i) and (ii), among such persons some are related through males only and some through females, the persons related through males only shall exclude the others; and amongst the others those shall be preferred in whose relationship the steps from the deceased proceed furthest through males;
- (iv) where among such persons some stand in a nearer and some in a more remote relationship to the deceased, but both are equally qualified under the three preceding rules, those in the nearer degree shall exclude those in the more remote;
- (v) where such persons stand in equal degree of relationship to the deceased and are equally qualified under the four preceding rules, the estate shall descend to the eldest male in the senior line, but if there be no male heir in that line, then to the eldest male in the next senior line in which there is a male heir; and if there be no male heir in any line, then to the eldest female in the senior line.

(VII.—Intestate Succession. VIII.—Maintenance.)

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section 11.]

23. Except in the cases provided for by section 22, the succession to all property left by taluqdars and grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

General rule of succession to intestate taluqdars and grantees.

VIII.—Maintenance.

24. When any taluqdar or grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned: Provided that such relative was at the date of the death of the deceased living together with him: Provided also that such relative is and continues to be without any other adequate means of maintenance.

Maintenance of surviving relatives of taluqdars and grantees.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

25. In the case of the grand-parents, parents and senior widows of the deceased, the maximum amount of the annuity shall be as follows:—

Grand-parents, parents, and senior widows.

- (a) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees—a sum not exceeding 6,000 rupees:
 - (b) where such revenue is or exceeds 1,00,000 rupees, but is less than 1,50,000 rupees—a sum not exceeding 2,400 rupees:
 - (c) where such revenue is or exceeds 50,000 rupees, but is less than 1,00,000 rupees—a sum not exceeding 1,200 rupees:
 - (d) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees—a sum not exceeding 600 rupees:
 - (e) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees—a sum not exceeding 360 rupees:
 - (f) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees—a sum not exceeding 240 rupees:
- and

(VIII.—Maintenance. IX.—Miscellaneous.)

(g) where such revenue is less than 7,000 rupees—a sum not exceeding 180 rupees.

Junior
widows.

In the case of a junior widow of a deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section.

Brothers and
minor sons.

26. In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Nephews.

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

Unmarried
daughters,
widows of
sons and
brothers and
inferior
widows.

27. In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-bradari*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Continuance
of annuities.

28. Subject to the provisions hereinbefore contained, the said annuities shall continue—

(a) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(b) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, would, according to the custom of the country, cease to be entitled to maintenance; and

(c) in all other cases, till the annuitant dies.

IX.—Miscellaneous.

Muhamma-
dan taluq-
dars and
grantees
empowered
to adopt.

29. Every Muhammadan taluqdar, grantee, heir or legatee, and every widow of a Muhammadan taluqdar or grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindu, he or she might adopt a son.

1* * * * *

Attestation
and registra-
tion of
adoptions.

²[29A. No adoption made by a taluqdar or grantee, or by his heir or legatee, or by the widow of any such taluqdar or grantee, heir or legatee, shall be deemed to be valid unless, in addition to the requirements, if any, imposed by the personal law of the adopter, the fact of such adoption has been declared by the adopter in a writing executed and attested in manner required in case of a will and registered.]

¹ The words "Such power shall be exercisable only by writing executed and attested in manner required by s. 19 in case of a will and registered" rep. by s. 15 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910)

² Ins. by s. 16, *ibid*.

(IX.—Miscellaneous.)

30. Any taluqdar or grantee whose name has been entered in the third or fifth of the lists mentioned in section 8, or his heir or legatee, may, at any time hereafter, present to the ¹[State Government], a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

Alteration of rules of intestate succession in cases of taluqdars and grantees named in list 3 or list 5.

On receiving such declaration, the said ¹[State Government] shall cause to be inserted the name of such taluqdar or grantee, heir or legatee in the fourth or sixth (as the case may be) of the lists mentioned in section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section 23.

31. Any taluqdar or grantee, heir or legatee may, at any time hereafter, present to the ¹[State Government] a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

Reverter to ordinary law of succession.

On receiving such declaration, the ¹[State Government] shall cause a note thereof to be made in the proper places in each of the lists mentioned in section 8 in which the name of such taluqdar or grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

²[31A. (1) Any taluqdar whose name has been inserted in the fourth of the lists prepared under section 8, or any grantee whose name has been inserted both in the first and in the sixth of the said lists, or the heir or legatee of such taluqdar or grantee, may declare that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 23 and that it shall in future be regulated in the manner described in section 22.

Alteration of rules of intestate succession in cases of taluqdars named in list 4 and grantees named in lists 1 and 6.

(2) Every such declaration shall be in writing, signed by the declarant, attested by two or more witnesses and registered, and shall be presented to the ³[State Government].

(3) On receiving such declaration the ³[State Government] shall cause the name of such taluqdar, grantee, heir or legatee, to be inserted in a list which shall, as occasion may arise, be published in

¹Subs. by the A. O. 1950 for "Provincial Government". These words were subs. by the A. O. 1937 for "L. G." which had been subs. for "Chief Commissioner of Oudh" and "Chief Commissioner" by the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), s. 17.

²Ins. by U. P. Act 3 of 1910, s. 18.

³See footnote 3 on p. 505, *supra*.

(IX.—Miscellaneous.)

the ¹[Official Gazette] and shall cause a note thereof to be made in the proper place in the fourth or sixth (as the case may be) of the said lists.

(4) Thenceforward the succession to the estate shall, in the case of intestacy, be regulated in the manner provided by section 22.

(5) The Courts shall take judicial notice of such list and shall regard it as conclusive evidence that such declaration has been made, registered and presented as above to the ²[State Government], and that the ³[State Government] has made the note referred to in sub-section (3).]

Savings of
rights of
creditors.

32. Nothing hereinbefore contained shall affect any right which the creditors of any person making a ³[transfer, bequest or declaration] under the provisions of this Act would have possessed as against the property comprised in such ³[transfer, bequest or declaration] if this Act had not been passed.

Power to
declare
property
subject to
the Act.

⁴[**32A.** (1) Any taluqdar, grantee, or his heir or legatee, may, by a registered instrument bearing a non-judicial stamp of fifteen rupees, signed by him and attested by two or more witnesses, declare that the immoveable property situated in the ⁵[Uttar Pradesh] in which he has a separate, permanent, heritable and transferable right, and which is specified in the instrument, is a part of his estate for the purposes of this Act.

Such declaration shall take effect from the date of the registration thereof.

(2) It shall be the duty of the registering officer to furnish the Collector of every district in which any portion of the property is situated with a properly authenticated copy of the declaration, and on receipt of such copy the Collector shall cause a note to be made in the record of rights relating to the immoveable property specified and shall also cause a copy of the declaration to be published in the ⁶[Official Gazette] in English and in the vernacular:]

Awards as to
compensation
and maintenance.

33. And whereas bodies of taluqdars have in several cases made awards respecting the provision to be made for certain relatives of taluqdars, and it is expedient to render such awards legally enforceable; It is hereby further enacted that every such award shall, if

¹ Subs. by the A. O. 1937 for "Gazette of India".

² See footnote 3 on p. 505, *supra*.

³ Subs. for "transfer or bequest" by the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), s. 19.

⁴ Ins. by s. 20, *ibid*.

⁵ Subs. by A. O. 1950 for "United Provinces".

⁶ Subs. by the A. O. 1937 for "Gazette".

(IX.—Miscellaneous Schedules.)

approved by the ¹[Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment.

SCHEDULES.

FIRST SCHEDULE.

(See section 3.)

I

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, to C. J. WINGFIELD, Esq., Chief Commissioner of Oudh,—(No. 6268, dated 10th October, 1859).

I AM directed by the Governor General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the taluqdari settlement of Oudh.

No. 1091,
dated the
4th June.
No. 1377,
dated the
15th July.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the taluqdars in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every taluqdar with whom a summary settlement has been made since the re-occupation of the province has thereby acquired a permanent hereditary and transferable proprietary right, namely, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamindars and village-occupants from extortion, and of upholding their rights in the soil in subordination to the taluqdars.

4. The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the taluqdars upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these taluqdars at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General.

¹ Read now "Board of Revenue". The Chief Commissioner of Oudh was subsequent to the passing of this Act invested with all the powers of the Financial Commissioner as Chief Controlling Revenue-authority in Oudh, see Notification No. 316, dated 22nd September 1871, Gazette of India, 1871, Pt. I, p. 727; and under the U. P. Act, 1890 (20 of 1890), the Board of Revenue takes the place of the Chief Commissioner and Chief Controlling Revenue-authority.

(Schedules.)

5. I am directed to add that, as regards zamindars and others not being taluqdars, with whom a summary settlement has been made, the orders conveyed in the Limitation Circular No. 31 of the 28th January, 1859, must not be strictly observed. Opportunity must be allowed at the next settlement to all disappointed claimants, to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, with the Governor General, to Chief Commissioner, Oudh,—(No. 23, dated 19th October, 1859).

I AM directed by His Excellency the Governor General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the taluqdars of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdars and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdars will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamindars or other persons have held an interest in the soil intermediate between the raiyat and the taluqdar, the amount or proportion payable by the intermediate holder to the taluqdar, and the net jama finally payable by the taluqdar to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdar being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattas) are given to the subordinate

1869 : Act IV.]

Divorce.

(Schedules.)

5. This being the position in which the taluqdars will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is, in many cases, more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders is to define and record their rights and to limit the demand of the taluqdars as against such persons during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue-demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamindars and taluqdars, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdari tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamindari tenure intermediate between the tenures of the taluqdar and the raiyat is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected.

SECOND SCHEDULE

(See section 4.)

- (1) Dig-Bijay Singh, Raja of Balrampur.
- (2) Rao Hardeo Bakhsh Singh of Katari.
- (3) Kashi Parshad, Taluqdar of Sissendi.
- (4) Jhhabba Singh, Zamindar of Gopal Khera.
- (5) Chandan Lal, Zamindar of Moraon (Baiswara).

THE INDIAN DIVORCE ACT.

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¹ACT NO. IV OF 1869.

[26th February, 1869.]

An Act to amend the law relating to Divorce and Matrimonial Causes in India.

WHEREAS it is expedient to amend the law relating to the divorce Preamble.

¹ For Statement of Objects and Reasons, see Calcutta Gazette, 1863, p. 173 ; for Report of Select Committee, see Gazette of India, 1869, p. 192 ; for Proceedings in Council, see Calcutta Gazette, 1862, Supplement, p. 463, *ibid.*, 1863, Supplement, p. 43, and Gazette of India, 1869, Supplement, p. 291.

(I.—Preliminary.)

of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows :—

I.—Preliminary.

Short title.
Commence-
ment of Act.

Extent of
Act.

Extent of
power to
grant relief
generally,

and to make
decrees of
dissolution,

1. This Act may be called the Indian Divorce Act, and shall come into operation on the first day of April, 1869.

2. ¹[This Act extends to the whole of India except Part B states.]

²[Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner ³[or respondent] professes the Christian religion,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

This Act extends to India the principal provisions of the Matrimonial Causes Act, 1857 (20 & 21 Vict., c. 85), as amended by the Matrimonial Causes Act, 1859 (22 & 23 Vict., c. 61), the Matrimonial Causes Act, 1860 (23 & 24 Vict., c. 144), and the Matrimonial Causes Act, 1868 (29 & 30 Vict., c. 32). It also embodies many rulings of Sir Cresswell Cresswell and Lord Penzance.

Provision was made by the Indian Divorces (Validity) Act (10 & 11 Geo. 5, ch. 18) with respect to the validity of certain decrees granted in India for the dissolution of the marriage of persons domiciled in the United Kingdom.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and has been declared to be in force in—

Santhal Parganas by the Santhal Parganas Settlement Regulation (3 of 1872), s. 3;

Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and

Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

the Districts of Hazáribágh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolmán in the District of Singbhum, see Gazette of India, 1881, Pt. I, p. 504;

(The District of Lohárdaga included at that time the present district of Palamau which was separated in 1894. The District of Lohárdaga is now called the Ranchi District—see Calcutta Gazette, 1899, Pt. I, p. 44.)

the Scheduled Districts in Ganjám and Vizagapatam, see Fort St. George Gazette, 1898, Pt. I, p. 666; Scheduled Districts in the Godavery, see *ibid.*, 1912, Pt. I, p. 1097.

It has been extended, by notification under s. 5 of the same Act, to the North-Western Provinces Taráí, see Gazette of India, 1876, Pt. I, p. 505.

The Limitation Act does not apply to suits under this Act, see the Indian Limitation Act, 1908 (9 of 1908), s. 29 (2).

The Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

¹ Subs. by the A. O. 1948 and 1950 for the original paragraph as amended by the A. O. 1937.

² Subs. by the Indian Divorce (Amendment) Act, 1926 (25 of 1926), for the original paragraph.

³ Ins. by the Indian Divorce (Second Amendment) Act, 1927 (30 of 1927), s. 2.

(I.—Preliminary.)

or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition, or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition.] or of nullity.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

¹[(1) 'High Court' means, with reference to any area—

- (a) in relation to a Part A State, the High Court for that State; "High-Court".
- (b) in relation to Ajmer, the High Court at Allahabad;
- (c) in relation to Bhopal, the High Court at Nagpur;
- (d) in relation to Bilaspur, Delhi and Himachal Pradesh, the High Court of Punjab;
- (e) in relation to Coorg, the High Court at Madras;
- (f) in relation to Kutch, the High Court at Bombay; and
- (g) in relation to the Andaman and Nicobar Islands, the High Court at Calcutta;

and in the case of any petition under this Act 'High Court' means the High Court for the area where the husband and wife reside or last resided together :

(2) 'District Judge' means a Judge of a principal civil court of original jurisdiction however designated :].

(3) "District Court" means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together : "District Court".

(4) "Court" means the High Court or the District Court, as the case may be : "Court".

(5) "minor children" means, in the case of sons of Native fathers, boys who have not completed the age of sixteen years, and in the case of daughters of Native fathers, girls who have not completed the age of thirteen years : in other cases it means unmarried children who have not completed the age of eighteen years : "Minor children".

(6) "incestuous adultery" means adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity : "Incestuous adultery".

(7) "bigamy with adultery" means adultery with the same woman with whom the bigamy was committed : "Bigamy with adultery".

(8) "marriage with another woman", means marriage of any person, being married, to any other person, during the life of the "Marriage with another woman".

¹ Subs. by the A. O. 1950 for the original clauses (1) and (2) as amended by Acts 11 of 1923, 32 of 1925, 8 of 1935, 13 of 1935, 40 of 1949, the A. O. 1937 and the A. O. 1948.

(I.—Preliminary. II.—Jurisdiction.)

former wife, whether the second marriage shall have taken place within ¹[India] or elsewhere :

“Desertion”. (9) “desertion” implies an abandonment against the wish of the person charging it : and

“Property”. (10) “property” includes, in the case of a wife, any property to which she is entitled for an estate in remainder or reversion, or as a trustee, executrix or administratrix ; and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II.—Jurisdiction.

Matrimonial jurisdiction of High Courts to be exercised subject to Act. Exception.

4. The jurisdiction now exercised by the High Courts in respect of divorce *a mensâ et toro*, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise : except so far as relates to the granting of marriage-licenses, which may be granted as if this Act had not been passed.

Enforcement of decrees or orders made heretofore by Supreme or High Court.

5. Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

Pending suits.

6. All suits and proceedings in causes and matters matrimonial, which when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

Court to act on principles of English Divorce Court.

7. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable, to the principles and rules on which the Court for Divorce and matrimonial Causes in England for the time being acts and gives relief :

²[Provided that nothing in this section shall deprive the said Courts of jurisdiction in a case where the parties to a marriage professed the Christian religion at the time of the occurrence of the facts on which the claim to relief is founded.]

Extraordinary jurisdiction of High Court.

8. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

¹ Subs. by the A. O. 1950 for “the dominions of Her Majesty”.

² Ins. by the Indian Divorce (Amendment) Act, 1912 (10 of 1912), s. 2.

(II.—Jurisdiction. III.—Dissolution of Marriage.)

The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge. Power to transfer suits.

9. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon, Reference to High Court.

the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case and refer it, with the Court's own opinion thereon, to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

III.—Dissolution of Marriage.

10. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof, been guilty of adultery. When husband may petition for dissolution.

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the ground that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman ; When wife may petition for dissolution.

or has been guilty of incestuous adultery,
or of bigamy with adultery,
or of marriage with another woman with adultery,
or of rape, sodomy or bestiality,
or of adultery coupled with such cruelty as without adultery would have entitled her to a *divorce a mensâ et toro*,
or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded. Contents of petition.

11. Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court :— Adulterer to be co-respondent.

- (1) that the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed ;

(III.—Dissolution of Marriage.)

(2) that the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover it;

(3) that the alleged adulterer is dead.

Court to be satisfied of absence of collusion.

12. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any countercharge which may be made against the petitioner.

Dismissal of petition.

13. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this section, the petitioner may, nevertheless, present a similar petition to the High Court.

Power to Court to pronounce decree for dissolving marriage.

14. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections 16 and 17 made and declared:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

(III.—Dissolution of Marriage.)

No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal co-habitation has been resumed or continued. Condonation.

15. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty or desertion without reasonable excuse, or in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion. Relief in case of opposition on certain grounds.

16. Every decree for a dissolution of marriage made by a High Court, not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs. Decrees for dissolution to be nisi.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court. Collusion.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

17. Every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court. Confirmation of decree for dissolution by District Judge.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of the Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the senior Judge shall prevail.

The High Court, if it think further enquiry or additional evidence to be necessary, may direct such enquiry to be made or such evidence to be taken.

(III.—Dissolution of Marriage. IV.—Nullity of Marriage.)

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit :

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person, suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed ; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

Appointment
of officer to
exercise
duties of
King's
Proctor.

¹[17A. The ²[State] Government of any ³[State] within which any High Court established by Letters Patent exercises jurisdiction, may appoint an officer who shall, within the jurisdiction of the High Court in that ³[State], have the like right of showing cause why a decree for the dissolution of a marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor ; and the said Government may make rules regulating the manner in which the right shall be exercised and all matters incidental to or consequential on any exercise of the right.

In relation to the jurisdiction of any such High Court as aforesaid in ⁴[a Part B State] this section shall have effect as if the reference to the ²[State] Government was a reference to the Central Government.]

IV.—Nullity of Marriage.

Petition for
decree of
nullity.

18. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

¹ Subs. by the A. O. 1937 for the original section 17A ins. by s. 2 of the Indian Divorce (Amendment) Act, 1927 (15 of 1927), which read as follows :—

"The G. G. in C. may appoint for each High Court of Judicature established by Letters Patent an officer who shall, within the jurisdiction of the High Court for which he is appointed, have the like right of showing cause why a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor, and the G.G. in C. may make rules regulating the manner in which the right shall be exercised and all matters incidental to, or consequential on, such exercise."

² Subs. by the A. O. 1950 for "Provincial".

³ Subs. by the A. O. 1950 for "Province".

⁴ Subs. by the A. O. 1950 for "an Indian State".

(IV.—Nullity of Marriage. V.—Judicial Separation.)

19. Such decree may be made on any of the following grounds:— Grounds of decrees.

- (1) that the respondent was impotent at the time of the marriage and at the time of the institution of the suit ;
- (2) that the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity ;
- (3) that either party was a lunatic or idiot at the time of the marriage ;
- (4) that the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force of fraud.

20. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of section 17, clauses 1, 2, 3 and 4, shall, *mutatis mutandis*, apply to such decrees. Confirmation of District Judge's decree.

21. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract. Children of annulled marriage.

V.—Judicial Separation.

22. No decree shall hereafter be made for a divorce *a mensâ et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensâ et toro* under the existing law, and such other legal effect as hereinafter mentioned. Bar to decree for divorce a mensâ et toro ; but judicial separation obtainable by husband or wife.

23. Application for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the District Court or the High Court ; and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly. Application for separation made by petition.

24. In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her. Separated wife deemed spinster with respect to after-acquired property

(III.—Dissolution of Marriage. IV.—Nullity of Marriage.)

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit :

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person, suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed ; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

Appointment
of officer to
exercise
duties of
King's
Proctor.

¹[17A. The "[State] Government of any "[State] within which any High Court established by Letters Patent exercises jurisdiction, may appoint an officer who shall, within the jurisdiction of the High Court in that "[State], have the like right of showing cause why a decree for the dissolution of a marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor ; and the said Government may make rules regulating the manner in which the right shall be exercised and all matters incidental to or consequential on any exercise of the right.

In relation to the jurisdiction of any such High Court as aforesaid in ⁴[a Part B State] this section shall have effect as if the reference to the ²[State] Government was a reference to the Central Government.]

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"The G. G. in C. may appoint for each High Court of Judicature established by Letters Patent an officer who shall, within the jurisdiction of the High Court for which he is appointed, have the like right of showing cause why a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor, and the G.G. in C. may make rules regulating the manner in which the right shall be exercised and all matters incidental to, or consequential on, such exercise."

² Subs. by the A. O. 1950 for "Provincial".

³ Subs. by the A. O. 1950 for "Province".

⁴ Subs. by the A. O. 1950 for "an Indian State".

(IV.—Nullity of Marriage. V.—Judicial Separation.)

19. Such decree may be made on any of the following grounds:— Grounds of decrees.

- (1) that the respondent was impotent at the time of the marriage and at the time of the institution of the suit ;
- (2) that the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity ;
- (3) that either party was a lunatic or idiot at the time of the marriage ;
- (4) that the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force of fraud.

20. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of section 17, clauses 1, 2, 3 and 4, shall, *mutatis mutandis*, apply to such decrees. Confirmation of District Judge's decree.

21. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract. Children of annulled marriage.

V.—Judicial Separation.

22. No decree shall hereafter be made for a divorce *a mensâ et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensâ et toro* under the existing law, and such other legal effect as hereinafter mentioned. Bar to decree for divorce a mensâ et toro ; but judicial separation obtainable by husband or wife.

23. Application for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the District Court or the High Court ; and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly. Application for separation made by petition.

24. In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her. Separated wife deemed spinster with respect to after-acquired property

(V.—Judicial Separation. Reversal of Decree of Separation. VI.—Protection-orders.)

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such co-habitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

Separated wife deemed spinster for purposes of contract and suing.

25. In every case of a judicial separation under this Act, the wife shall whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use:

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of Decree of Separation.

Decree of separation obtained during absence of husband or wife may be reversed.

26. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts or acts of the wife incurred, entered into or done between the times of the sentence of separation and of the reversal thereof.

VI.—Protection-orders.

Deserted wife may apply to

27. Any wife to whom section 4 of the Indian Succession Act, 1865¹, does not apply, may, when deserted by her husband, present a peti-

X of 1865.

¹ See now the Indian Succession Act, 1925 (39 of 1925).

(VI.—Protection-orders. VII.—Restitution of Conjugal Rights.

tion to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

Court for protection.

28. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

Court may grant protection-order.

29. The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly.

Discharge or variation of orders.

30. If the husband, or any creditor of, or person claiming under, the husband, seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

Liability of husband seizing wife's property after notice of order.

31. So long as any such order of protection remains in force, the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

Wife's legal position during continuance of order.

VII.—Restitution of Conjugal Rights.

32. When either the husband or the wife has, without reasonable excuse withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Petition for restitution of conjugal rights.

33. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

Answer to petition.

(VIII.—*Damages and Costs.* IX.—*Alimony.*)VIII.—*Damages and Costs.*

Husband
may claim
damages
from adul-
terer.

34. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

Power to
order
adulterer to
pay costs.

35. Whenever in any petition presented by a husband, the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the cost of the proceedings:

Provided that the co-respondent shall not be ordered to pay the petitioner's costs—

(1) if the respondent was, at the time of the adultery, living apart from her husband and leading the life of a prostitute, or

(2) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.

Power to
order liti-
gious inter-
venor to pay
costs.

Whenever any application is made under section 17, the Court, if it thinks that the applicant had no grounds or no sufficient grounds for intervening may order him to pay the whole or any part of the costs occasioned by the application.

IX.—*Alimony.*

Alimony pen-
dente life.

36. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband ; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just:

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average nett income for the three years next

(IX.—*Alimony.* X.—*Settlements.*

preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

37. The High Court may, if it think fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife, Power to order permanent alimony.

and the District Judge may, if he thinks fit, on the confirmation of any decree of his, declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable, and for that purpose may cause a proper instrument to be executed by all necessary parties.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable: Power to order monthly or weekly payments.

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

38. In all cases in which the Court makes any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do. Court may direct payment of alimony to wife or to her trustee.

X.—*Settlements.*

39. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both. Power to order settlement of wife's property for benefit of husband and children.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

(X.—Settlements. XI.—Custody of Children.)

Settlement of
damages.

The Court may direct that the whole or any part of the damages recovered under section 34 shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

Inquiry into
existence of
ante-nuptial
or post-
nuptial
settlements,

40. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court, after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI.—Custody of Children.

Power to
make orders
as to custody
of children in
suit for
separation.

41. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

Power to
make such
orders after
decree.

42. The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Power to
make orders
as to custody
of children in
suits for
dissolution
or nullity.

43. In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree,

and in any such suit instituted in a District Court, the Court may from time to time, before its decree is confirmed, make such interim orders, and may make such provision on such confirmation,

(XI.—Custody of Children. XII.—Procedure.)

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit ;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

44. The High Court, after a decree absolute for dissolution of marriage or a decree of nullity of marriage, and the District Court, after a decree for dissolution of marriage or of nullity of marriage has been confirmed, Power to make such orders after decree or confirmation.

may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the degree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

XII.—Procedure.

45. Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure¹. Code of Civil Procedure to apply.

46. The forms set forth in the schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule. Forms of petitions and statements.

47. Every petition under this Act for a decree of dissolution of marriage or of nullity of marriage, or of judicial separation * * * shall * * * state that there is not any collusion or connivance between the petitioner and the other party to the marriage ; Stamp on petition.
the statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of complaints, and may at the hearing be referred to as evidence. Petition to state absence of collusion. Statements to be verified.

48. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody. Suits on behalf of lunatics.

¹ See now the Code of Civil Procedure, 1908 (5 of 1908).

² The words "or of reversal of judicial separation, or for restitution of conjugal rights, or for damages, shall bear a stamp of five rupees, and," and the words "in the first, second, and third cases mentioned in this section," rep. by the Court-fees Act, 1870 (7 of 1870). For Court-fee, see now Art. 7 of Sch. II to that Act.

(XII.—Procedure.)

Suits by
minors.

49. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking * * * shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

Service of
petition.

50. Every petition under this Act shall be served on the party to be affected thereby, either within or without "[India], in such manner as the High Court by general or special order from time to time directs:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

Mode of tak-
ing evidence.

51. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined, like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

Competence
of husband
and wife to
give evidence
as to cruelty
or desertion.

52. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

Power to
close doors.

53. The whole or any part of any proceeding under this Act may be heard if the Court thinks fit, with closed doors.

Power to
adjourn.

54. The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

Enforcement
of and appeal
from orders
and decrees.

55. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed³ from, in the like manner as the decrees and orders of the Court made in the

¹ The words "shall bear a stamp of eight annas and" rep. by the Court-fees Act, 1870 (7 of 1870). For court-fee, see now Art. 7 of Sch. II to that Act.

² Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

³ For court-fee on memorandum of appeal, see now Art. 7 of Sch. II to the Court Fees Act, 1870 (7 of 1870).

(XII.—Procedure. XIII.—Re-marriage.)

exercise of its original civil jurisdiction are enforced and may be appealed from under the laws, rules and orders for the time being in force:

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage: nor from the order of the High Court confirming or refusing to confirm such decree:

Provided also that there shall be no appeal on the subject of costs No appeals as to costs. only.

56. Any person may appeal to ¹[the Supreme Court] from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise, Appeal to the Supreme Court.

and from any degree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to ¹[the Supreme Court].

XIII.—Re-marriage.

57. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage made by a District Judge have expired, Liberty to parties to marry again.

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death:

Provided that no appeal to ¹[the Supreme Court] has been presented against any such order or decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

58. No clergyman in Holy Orders of the ^{2*} * Church of England English clergyman not compelled to solemnize marriages of shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or

¹ Subs. by the A. O. 1950 for "Her Majesty in Council".

² The word "United" rep. by the Repealing Act, 1873 (12 of 1873).

³ The words "and Ireland" rep., *ibid.*

(XIII.—*Re-marriage.* XIV.—*Miscellaneous.*)

persons
divorced for
adultery.

her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

English
minister re-
fusing to per-
form cere-
mony to per-
mit use of
his church.

59. When any minister of any church or chapel of the said ¹* * Church refuses to perform such marriage service between any persons who, but for such refusal would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in Holy Orders of the said Church entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

XIV.—*Miscellaneous.*

Decree for
separation or
protection
order valid
as to persons
dealing with
wife before
reversal.

60. Every decree for judicial separation or order to protect property obtained by a wife under this Act shall, until reversed or discharged, be deemed valid; so far as necessary, for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge or variation thereof.

Indemnity of
persons mak-
ing payment
to wife with-
out notice of
reversal of
decree or
protection
order.

All persons who in reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

Bar of suit
for criminal
conversation.

61. After this Act comes into operation, no person competent to present a petition under sections 2 and 10 shall maintain a suit for criminal conversation with his wife.

Power to
make rules.

62. The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same:

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure².

All such rules, alterations and additions shall be published in the ³[Official Gazette].

¹ The word "United" rep. by the Repealing Act, 1873 (12 of 1873).

² See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

³ Subs. by the A. O. 1937 for "local official Gazette".

SCHEDULE OF FORMS.

No. 1.—PETITION BY HUSBAND FOR A DISSOLUTION OF MARRIAGE WITH DAMAGES AGAINST CO-RESPONDENT, BY REASON OF ADULTERY.

(See sections 10 and 34.)

In the (High) Court of

To the Hon'ble Mr. Justice

[or To the Judge of

The day of 186

The petition of A. B., of

SHEWETH,

1. That your petitioner was on the day of , one thousand eight hundred and , lawfully married to C. B., then C. D., spinster, at

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at in , and that your petitioner and his said wife have had issue of their said marriage, five children, of whom two sons only survive, aged respectively twelve and fourteen years.

3. That during the three years immediately preceding the day of one thousand eight hundred and , X. Y. was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said C. B. in your petitioner's said house committed adultery with the said X. Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.

(Signed) A. B.^b

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

* If the marriage was solemnized out of India, the adultery must be shown to have been committed in India.

^b The petition must be signed by the petitioner.

No. 2.—RESPONDENT'S STATEMENT IN ANSWER TO No. 1.

In the Court of the day of
 Between A. B., petitioner,
 C. B., respondent, and
 X. Y., co-respondent.

C. B., the respondent, by D. E., her attorney [*or vakil*], in answer to the petition of A. B., says that she denies that she has on divers or any occasions committed adultery with X. Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Hon'ble) Court will reject the said petition.

(Signed) C. B.

No. 3.—CO-RESPONDENT'S STATEMENT IN ANSWER TO No. 1.

In the (High) Court of
 The day of
 Between A. B., petitioner,
 C. B., respondent, and
 X. Y., co-respondent.

X. Y., the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said C. B. as alleged in the said petition.

Wherefore the said X. Y. prays that this (Hon'ble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed) X. Y.

No. 4.—PETITION FOR DECREE OF NULLITY OF MARRIAGE.

(*See section 18.*)

In the (High) Court of
 To the Hon'ble Mr. Justice [*or To the Judge of*].
 The day of , 186 .

The petition of A. B., falsely called A. D.,

SHEWETH,

1. That on the day of , one thousand eight hundred and

. you petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to C. D., then a bachelor of about thirty years of age, at [some place in India].

2. That from the said day of , one thousand eight hundred and , until the month of , one thousand eight hundred and , your petitioner lived and cohabited with the said C. D., at divers places and particularly at aforesaid.

3. That the said C. D. has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said C. D. was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said C. D. with respect to the subject of this suit.

Your petitioner therefore prays that this (Hon'ble) Court will declare that the said marriage is null and void.

(Signed) A. B.

Form of Verification : see No. 1.

NO. 5.—PETITION BY WIFE FOR JUDICIAL SEPARATION ON THE GROUND OF HER HUSBAND'S ADULTERY.

(See section 22.)

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of].

The day of 186 .

The petition of C. B., of , the wife of A. B.

SHEWETH,

1. That on the day of , one thousand eight hundred and *sixty* , your petitioner, then C. D., was lawfully married to A. B. at the Church of , in the .

2. That after her said marriage, your petitioner cohabited with the said A. B. at and at , and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, *etc., etc.*^a

3. That on divers occasions in or about the months of *August. September and October*, one thousand eight hundred and *sixty* ,

^a State the respective ages of the children.

the said A. B., at aforesaid, committed adultery with E. F., who was then living in the service of the said A. B. and your petitioner at their said residence aforesaid.

4. That on divers occasions in the months of *October, November and December*, one thousand eight hundred and *sixty*, the said A. B., at aforesaid, committed adultery with G. H., who was then living in the service of the said A. B. and your petitioner at their said residence aforesaid.

5. That no collusion or connivance exists between your petitioner and the said A. B. with respect to the subject of the present suit.

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) C.B.^a

Form of Verification : see No. 1.

No. 6.—STATEMENT IN ANSWER TO No. 5.

In the (High) Court of

B. against B.

The day of

The respondent, A. B., by W. Y., his attorney [or vakil], saith,—

1. That he denies that he committed adultery with E. F., as in the third paragraph of the petition alleged.

2. That the petitioner condoned the said adultery with E. F., if any.

3. That he denies that he committed adultery with G. H., as in the fourth paragraph of the petition alleged.

4. That the petitioner condoned the said adultery with G. H., if any.

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petition:—

(Signed) A. B.

No. 7.—STATEMENT IN REPLY TO No. 6.

In the (High) Court of

B. against B.

The day of

The petitioner, C. B., by her attorney [or vakil], says,—

1. That she denies that she condoned the said adultery of the respondent with E. F., as in the second paragraph of the statement in answer alleged.

^a The petition must be signed by the petitioner.

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with G. H., as set forth in the fourth paragraph of the petition.

(Signed) C. B.

No. 8.—PETITION FOR A JUDICIAL SEPARATION BY REASON OF CRUELTY.

(See section 22.)

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of].

The day of , 186 .

The petition of A. B. (wife of C. B.) of

SHEWETH,

1. That on the day of , one thousand eight hundred and , your petitioner, then A. D., spinster, was lawfully married to C. B., at .

2. That from her said marriage, your petitioner lived and cohabited with her said husband at until the day of , one thousand eight hundred and , when your petitioner separated from her said husband as hereinafter more particularly mentioned and that your petitioner and her said husband have had no issue of their said marriage.

3. That from and shortly after your petitioner's said marriage, the said C. B. habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.

4. That on an evening in or about the month of one thousand eight hundred and , the said C. B. in the highway and opposite to the house in which your petitioner and the said C. B. were then residing at aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of F. D., your petitioner's brother.

5. That subsequently on the same evening, the said C. B., in his said house at aforesaid, struck your petitioner with his clenched fists a violent blow on her face.

6. That on one Friday night in the month of , one thousand eight hundred and , the said C. B., in , without provocation threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the day of , one thousand eight hundred and , your petitioner, by reason of the great and continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at , that from and after the said day of , one thousand eight hundred and , your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation between your petitioner and the said C. B., and also order that the said C. B. do pay the costs of and incident to these proceedings.

(Signed) A. B.

Form of Verification : see No. 1.

No. 9.—STATEMENT IN ANSWER TO No. 8.

In the (High) Court of

The day of .

Between A. B., petitioner, and C. B., respondent.

C. B., the respondent, in answer to the petition filed in this cause, by W. J., his attorney [or wakil], saith that he denies that he has been guilty of cruelty towards the said A. B., as alleged in the said petition.

(Signed) C. B.

No. 10.—PETITION FOR REVERSAL OF DECREE OF SEPARATION.

(See section 24.)

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of].

The day of , 186 .

The petition of A. B., of .

SHEWETH,

1. That your petitioner was on the day of , lawfully married to .

2. That on the day of , this (Hon'ble) Court, at the

petition of _____, pronounced a decree affecting the petitioner to the effect following, to wit,—

[*Here set out the decree.*]

3. That such decree was obtained in the absence of your petitioner, who was then residing at _____

[*State facts tending to show that the petitioner did not know of the proceedings; and, further, that had he known he might have offered a sufficient defence,*]

or

That there was reasonable ground for your petitioner leaving his said wife or that his said wife _____

[*Here state any legal grounds justifying the petitioner's separation from his wife.*]

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) A. B.

Form of Verification : see No. 1.

NO. 11.—PETITION FOR PROTECTION-ORDER.

(*See section 27.*)

In the (High) Court of _____

To the Hon'ble Mr. Justice _____

[or To the Judge of _____].

The _____ day of _____, 186 .

The petition of C. B., of _____
the wife of A. B.

SH EWETH,

That on the _____ day of _____ she was lawfully married to A. B. at _____.

That she lived and cohabited with the said A. B. for _____ years at _____, and also at _____, and had had _____ children, issue of her said marriage, of whom _____ are now living with the applicant, and wholly dependent upon her earnings.

That on or about _____, the said A. B., without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [or on her own property, *as the case may be*] and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*].

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of, , from the said A. B., and from all creditors and persons claiming under him.

(Signed) C. B.

NO. 12.—PETITION FOR ALIMONY PENDING THE SUIT.

(See section 36.)

In the (High) Court of

B. against B.

To the Hon'ble Mr. Justice [or To the Judge of].

The day of , 186 .

The petition of C. B., the lawful wife of A. B.

SHEWETH,

1. That the said A. B. has for some years carried on the business of , at , and from such business derives the net annual income of from Rs. 4,000 to 5,000.

2. That the said A. B. is possessed of plate, furniture, linen and other effects at his said house aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

3. That the said A. B. is entitled, under the will of his father, subject to the life-interest of his mother therein, to property of the value of Rs. 5,000 or some other considerable amount.¹

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet.

(Signed) C. B.

¹ The petitioner should state her husband's income as accurately as possible.

Form of Verification: see No. 1.

No. 13.—STATEMENT IN ANSWER TO No. 12.

In the (High) Court of

B. against B.

A. B., of _____, the above-named respondent, in answer to the petition for alimony, pending the suit of C. B., says—

1. In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of _____, at _____, and that, from such business, I have derived a nett annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattles and effects at my said house _____ aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portions thereof I have since purchased with my own moneys. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000; that is to say, I shall be entitled under my said father's will, upon the death of my mother, to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the _____ day of _____ last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the _____ day of _____ last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within five days of her departure from

Procedure of High Court of Uttar Pradesh. [1869 : Act XIII.]

my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs. , and that she has ever since withheld and still withholds from me the same sum.

(Signed) A. B.

No. 14.—UNDERTAKING BY MINOR'S NEXT FRIEND TO BE ANSWERABLE FOR RESPONDENT'S COSTS.

(See section 49.)

In the (High) Court of

I, the undersigned, A. B., of , being the next friend of C. D., who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against D. D. of , hereby undertake to be responsible for the costs of the said D. D. in such suit, and that, if the said C. D. fail to pay to the said D. D. when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him (or her) to pay to the said D. D., I will forthwith pay the same to the proper officer of this Court.

Dated this day of , 186 .

(Signed) A. B.

¹Act No. XIII OF 1869.

[19th March, 1869.]

An Act further to amend the Procedure of the High Court of Judicature for ²[Uttar Pradesh.]

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for ³[Uttar Pradesh] ; it is hereby enacted as follows:—

1. [Trial of Natives and European British subjects conjointly.] Rep. by the Advocate-General's (Powers) Act. 1875 (X of 1875).

2. [Record of evidence.] Rep., *ibid.*

Power to
award costs
on petitions,
etc.

3. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil ⁴* * or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

¹ For Statement of Objects and Reasons, see Gazette of India, 1868, p. 1681 ; and for Proceedings in Council, see *ibid.*, Supplement, pp. 1108 and 1109 ; and *ibid.*, 1869, Supplement, p. 464.

² Subs. by the A. O. 1950 for "the North Western Province".

³ Subs. by the A. O. 1950 for "the North Western Provinces of the Presidency of Fort William".

⁴ The word "Criminal" in s. 3 is omitted as so much of s. 3 as relates to criminal jurisdiction was repealed by the High Court's Criminal Procedure Act, 1875 (10 of 1875), s. 2.

Penalty for
making false
statements
in support of
petitions,
etc.

'4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

THE BOMBAY CIVIL COURTS ACT, 1869.

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ACT No. XIV OF 1869.

[19th March, 1869.]

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating ^{Preamble.} to the district and other subordinate Civil Courts in the Presidency of Bombay ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Extent.

1. This Act may be called the Bombay Civil Courts Act, 1869, and ^{Short title.} extends only ²[to those parts of the ³[State] of Bombay in which the ^{V of 1908.} Code of Civil Procedure, 1908, is in force ; but the ⁴[State] Government may, by notification in the official Gazette, extend this Act to any other part of the said ³[State]].

2. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

¹ For Statement of Objects and Reasons, see Gazette of India, 1869, p. 100 ; and for Proceedings in Council, see *ibid*, 1869, Supplement, pp. 59, 180, 185, 336, 421 and 464.

² Subs. by the A. O. 1948 for the original words as amended by the A. O. 1937.

³ Subs. by the A. O. 1950 for "Province".

⁴ Subs. by the A. O. 1950 for "Provincial".

Part II.—Districts and Sadr Stations. Part III.—District Courts.

PART II.

DISTRICTS AND SADR STATIONS.

Alteration
and creation
of Districts.

3. The ¹[State Government] may from time to time, by a notification in the ²[Official Gazette], after the limits of existing zilas (which shall hereafter be called districts) and create new districts for the purposes of this Act.

Position of
sadr station.

4. The ¹[State Government] may also from time to time, by a notification in the ²[Official Gazette], alter the position of the sadr station in any district, and fix the position of the sadr station in any new district.

PART III.

DISTRICT COURTS.

District
Judges.

5. There shall be in each district a District Court presided over by a Judge to be called the District Judge. ³* * *

Situation of
District
Court.

6. The District Judge shall ordinarily hold the District Court at the sadr station in his district, but may, with the previous sanction of the High Court, hold it elsewhere within the district.

Original
jurisdiction
of District
Court.

7. The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the ⁴Code of Civil Procedure.

Appellate
jurisdiction
of District
Court.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

Control and
inspection of
Court.

9. The District Judge shall have general control over all the Civil Courts and their establishments within the district, and it shall be his duty to inspect, or to cause one of his assistants to inspect, the

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Governor of Bombay in Council".

² Subs. by the A. O. 1937 for "Govt. Gazette".

³ The words "The present Zila Judges shall be the first District Judges under this Act" rep. by the Repealing Act, 1876 (12 of 1876), and the words "He shall be appointed by the Governor of Bombay in Council, by whose authority only he shall be liable to be suspended or removed from his appointment", rep. by the A. O. 1937. As to appointment of District Judges, see now the G. of I. Act, 1935 (26, Geo. 5, ch. 2), s. 254.

⁴ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(Part III.—District Courts. Part IV.—Joint Judges.)

proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require. Writs and orders.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the ¹[State Government]. Reports and returns.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon the Royal Arms, with the following inscription in English and the principal language of the district :—
“District Court of”. Seal of District Judge.

PART IV.

JOINT JUDGES.

12. The ¹[State Government] may ²* * * * * appoint in any district a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court. Power to appoint Joint Judges.

* * * * *

⁴[12A. The ⁵[State] Government may appoint the District Judge or the Assistant Judge in any district to be also a Joint Judge in another district. Such Joint Judge may hold his court and transact civil business at such place or places in either district as he may deem fit.] Power to appoint District Judge or Assistant Judge in one district to be Joint Judge in another district.

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge. Enactments applied to Joint Judge, Joint Judges seal.

¹ See footnote 4 on p. 566 *supra*.

² The words “with the previous sanction of the Governor General of India in Council” rep. by the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), s. 3 and Sch. II.

³ The second cl. rep. *ibid*.

⁴ Ins. by s. 2 of the Bombay Civil Courts (Amendment) Act, 1942 (Bom. 11 of 1942), read with s. 3 of Bom. 48 of 1947.

⁵ Subs. by the A. O. 1950 for “Provincial”.

(Part V.—Assistant Judges.)

PART V.

ASSISTANT JUDGES.

Power to
appoint
Assistant
Judges.

14. The ¹[State Government] ²* * * * * may appoint one or more Assistants to the District Judge ³* * * * *.

Situation of
Assistant
Judge's
Court.

15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the district, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

Original
jurisdiction
of Assistant
Judge.

16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value, ⁴[applications or references under special Acts,] and miscellaneous applications not being of the nature of appeals.

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications ⁴[or references].

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

* * * * *

Appellate
jurisdiction
of Assistant
Judge.

17. The ¹[State Government] may, by notification in the "[Official Gazette], empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

Continuance
of Assistant
Judge's
appellate
jurisdiction.

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the district in which he may be employed:

¹ See footnote 4 on p. 566 *supra*.

² The words "under the general control of the Governor General of India in Council" rep. by the A. O. 1937.

³ The words "and may suspend or remove from his appointment any Assistant so appointed" rep. by the A. O. 1937, and the words "The present Assistant Judges shall be the first Assistant Judges under this Act" rep. by the Repealing Act, 1876 (12 of 1876).

⁴ Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 2.

⁵ The last paragraph rep. by the Succession Certificate Act, 1889 (7 of 1889), and the Guardians and Wards Act, 1890 (8 of 1890).

⁶ Subs. by the A. O. 1937 for "Govt. Gazette".

(Part V.—Assistant Judges. Part VI.—Subordinate Judges.)

Provided that the ¹[State Government] may, by notification in the ²[Official Gazette], at any time withdraw such power.

19. The ¹[State Government] may, by notification in the ²[Official Gazette], invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a district, and may, by like notification, from time to time determine and alter the limits of such part.

Power to invest Assistant Judge with powers of District Judge.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the ¹[State Government], and may, with the previous sanction of the High Court, hold it at any other place within such limits.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

Assistant Judge to use seal of District Judge.

PART VI.

SUBORDINATE JUDGES.

21. There shall be in each district so many Civil Courts subordinate to the District Court as the ¹[Provincial Government] * * * shall from time to time direct:

Number of Civil Courts.

⁴[Provided that for special reasons it shall be lawful for the ¹[State Government] at any time to close temporarily any such Subordinate Court.]

22. The Judges of such Subordinate Courts shall be appointed by the ¹[State Government], and shall be called Subordinate Judges.

Appointment of Subordinate Judges.

5 * * * *

⁶[22A. The ¹[State Government] may, by notification in the official Gazette, fix, and, by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the Subordinate Judges.]

Power to fix local limits of jurisdiction of Subordinate Judges.

¹ See footnote 4 on p. 566 *supra*.

² Subs. by the A. O. 1939 for "Govt. Gazette".

³ The words "acting under the general control of the Governor General of India in Council" rep. by the A. O. 1937.

⁴ Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act. 1 of 1900), s. 3.

⁵ The second and third paragraphs relating to the qualifications of Subordinate Judges rep. by the A. O. 1937. See now the G. of I. Act, 1935 (26 Geo. 5, Ch. 2), s. 255.

⁶ Ins. by the Bombay Civil Courts Act, 1880 (9 of 1880), s. 2.

(Part VI.—Subordinate Judges.)

Situation of
Subordinate
Courts.

23. The Subordinate Judges shall hold their Courts at such place or places as the ¹[State Government], may from time to time appoint within the local limits of their respective jurisdictions:

²[Provided that for special reasons it shall be lawful for the ¹[State Government] to order that a Subordinate Judge shall hold his Court at a place outside the local limits of his jurisdiction.]

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one subordinate Court ³[and may dispose of the Civil business of any one of his Courts at the headquarters of any other of his Courts:] and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

Appoint-
ment of
Joint sub-
ordinate
Judges.

¹[For the purpose of assisting the Judge of any subordinate Court in the disposal of the civil business on his file, ²[the High Court may appoint to such Court from the members of the Subordinate Civil Judicial Service of the ⁴[State]] one or more Joint Subordinate Judges, or the District Judge may, with the previous sanction of the High Court, depute to such Court the Judge of another subordinate Court within the district. A Subordinate Judge thus appointed or deputed to assist in the Court of another Subordinate Judge shall dispose of such civil business within the limits of his pecuniary jurisdiction as may, subject to the control of the District Judge, be referred to him by the Judge of such Court. ⁷[He may also dispose of the civil business of his Court at the place of his deputation subject to the general or special orders of the High Court in this behalf.]

Provisions
applicable to
Joint
Subordinate
Judges.

⁴[For the purposes of this section the provisions of the Act applicable to Subordinate Judges shall be, and shall be deemed always to have been applicable to Joint Subordinate Judges: Provided that no such Joint Subordinate Judge shall hear and determine any suit instituted under section 4 of the Dekkhan Agriculturists' Relief Act, ^{xvii of} 1879, unless the value of the said suit falls within the limits of the ^{1879.} pecuniary jurisdiction conferred on him by that Act.]

¹ See footnote 4 on p. 566 *supra*.

² Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 4.

³ Ins. by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom. Act 7 of 1930), s. 2.

⁴ These two paragraphs were subs. for the original last paragraph by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 4.

⁵ Subs. by the A. O. 1937 for "the Governor of Bombay in Council may appoint to such Court".

⁶ Subs. by the A. O. 1950 for "Province".

⁷ Ins. by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom. Act 7 of 1930), s. 2.

(Part VI.—Subordinate Judges.)

24. The Subordinate Judges shall be of two classes.

Classes of
Subordinate
Judges.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

Jurisdiction
of Sub-
ordinate
Judge of
first class.

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

Jurisdiction
of Sub-
ordinate
Judge of
second
class.

"Provided that the [State Government] may increase the limit of five thousand rupees to seven thousand and five hundred rupees in the case of any Subordinate Judge of the second class, of not less than ten years' standing and specially recommended in this behalf by the High Court. A Subordinate Judge so empowered shall continue to exercise this power so long and as often as he may fill the office of a Subordinate Judge of the second class without reference to the District in which he may be employed, unless the powers are withdrawn by [the State Government].

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature, * * * * as may arise within the local jurisdiction of the Courts in the district presided over by Subordinate Judges of the second class [and wherein the subject-matter exceeds the pecuniary jurisdiction of the Subordinate Judge of the second class as defined by section 24].

Special
jurisdiction
of Sub-
ordinate
Judge of
first class.

In districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

26. In all suits decided by a Subordinate Judge * * * of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appeals
from his
decision

¹ Ins. by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom. Act 7 of 1930), s. 3.

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Governor in Council".

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Govt."

⁴ The words "wherein the subject matter exceeds five thousand rupees in amount or value" rep. by the Bombay Civil Courts and the Sind Courts (Amendment) Act, 1930 (Bom. Act 7 of 1930), s. 4.

⁵ Ins., *ibid.*

⁶ The words "of the first class in the exercise of his ordinary and special original jurisdiction" rep. by the Bombay Civil Courts (Amendment) Act, 1930 (Bom. Act 28 of 1930), s. 2.

(Part VI.—Subordinate Judges.)

Appellate jurisdiction of Subordinate Judge of first class or Judge of Court of Small Causes.

27. The ¹[State Government] may invest any Subordinate Judge of the first class ²[or any Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, in any place to which this section extends] with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the district. IX of 1887.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class ²[or a Judge of a Court of Small Causes] shall have the same force as if passed by a District Judge.

³[A Subordinate Judge of the first class or a Judge of a Court of small Causes, on whom the Power of hearing appeals has once been conferred under this section, shall continue to have this power so long and so often as he may fill the office of Subordinate Judge of the first class or Judge of a Court of Small Causes respectively, without reference to the district in which he may be employed: Provided that the ¹[State Government] may, by notification in the ⁴[Official Gazette], at any time withdraw such power.]

Power to invest Subordinate Judges with small cause powers.

28. ⁵[The ¹[State Government] may invest, within such "local limits as ⁷[it] shall from time to time appoint, any Subordinate Judge with the jurisdiction of a Court of Small Causes for the trial of suits cognizable by such Courts up to such amount as he may deem proper; not exceeding in the case of any Subordinate Judge of the first class one thousand rupees, and in the case of any Subordinate Judge of the second class ⁸[three hundred] rupees.]

The ¹[State Government] may, whenever ⁷[it] thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

Power to invest Subordinate Judges with jurisdiction under certain Acts.

⁹[28A. (1) The High Court may by general or special order invest any Subordinate Judge, within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under the Indian Succession Act, 1865,¹⁰ the Probate and Administration Act, 1881,¹⁰ or paragraph 5 of Schedule III to the Code of Civil Procedure, 1908. X of 1865. V of 1881. V of 1908.

¹ See footnote 4 on p. 566, *supra*.

² Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. Act 1 of 1900), s. 5.

³ Subs., *ibid.*, for the original paragraph.

⁴ Subs. by the A. O. 1937 for "Govt. Gazette".

⁵ Subs. for the original paragraph by the Bombay Civil Courts Amendment Act, 1900 (Bombay Act 1 of 1900), s. 6.

⁶ That is, in territories other than those in which the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), is in force; see s. 5 of that Act.

⁷ Subs. by the A. O. 1937 for "he".

⁸ Subs. by the Bombay Civil Courts and Sind Courts (Amendment) Act, 1930 (Bom. 7 of 1930), s. 5, for "two hundred".

⁹ Ins. by the Bombay Civil Courts Amendment Act, 1912 (Bom. 5 of 1912), s. 2.

¹⁰ See now the Indian Succession Act, 1925 (39 of 1925).

(2) Every order made by a Subordinate Judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject-matter exceeds or does not exceed five thousand rupees.

(3) Every order of the District Judge passed on appeal under sub-section (2) from the order of a Subordinate Judge shall be subject to an appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals from appellate decrees.]

29. Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the district:—"Subordinate Judge of

Seal of Sub-
ordinate
Judge.

30, 31. [First Subordinate Judges. Pending proceedings.] Rep. by the Repealing Act, 1876 (XII of 1876).

¹[32. (1) No subordinate court other than the court of a subordinate Judge of the first class and no court of Small Causes shall receive or register any suit in which ²[the Government] or any officer of ³[the Government] in his official capacity is a party.

Government
suits.

(2) In every such case the plaintiff shall be referred to the court of the Subordinate Judge of the first class and such suit shall be instituted only in the court of the subordinate judge of the first class and shall be heard by such Subordinate Judge, subject to the provisions of section 24 of the Code of Civil Procedure, 1908.

V of 1908.

(3) Nothing in this section shall be deemed to apply to a suit against the administration of a Government railway: or to apply to any suit merely because an officer of ³[the Government] is a party thereto, in his capacity of—

(a) member of a local authority,

(b) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under:—

V of 1908. (i) Order 32, rule 4 (4), of the Code of Civil Procedure, 1908 ;

IV of 1912. (ii) section 69 or 71 of the Indian Lunacy Act, 1912 ;

VIII of 1890. (iii) section 7, 18 or 42 of the Guardians and Wards Act, 1890;

¹ Subs. by the Bombay Civil Courts (Amendment) Act, 1926 (Bom. 6 of 1926), s. 2, for the original section.

² Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "the Secretary of State for India in Council".

³ Subs. by the A. O. 1950 for "the Crown" which had been subs. by the A. O. 1937 for "Govt".

(Part VI.—Subordinate Judges. Part VII.—Temporary Vacancies.)

- (iv) section 1 or 17 of the Ahmedabad Talukdars' Act, 1862 ; Bom. VI of 1862.
 (v) section 3, 19 (1), 19 (2), 20, 22 (1) or 41 (1) of the Bombay Bom. I of 1905. Court of Wards Act, 1905.”]

33. [Commission of Inquiry into alleged misconduct.] Rep. by the A. O. 1937.

34. [Suspension of Subordinate Judges by High Court ; by District Judge. Saving of power of Government to suspend or dismiss.] Rep. by the A. O. 1937.

PART VII.

TEMPORARY VACANCES.

Temporary
Vacancy of
Office of
District
Judge.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, the first in rank of the Assistant Judges in the district, or in the absence from the district of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the district, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

Delegation
of Powers
of District
Judge.

36. Any District Judge leaving the *sadr* station and proceeding on duty to any place within his district may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the *sadr* station, the power of performing such of the duties enumerated in section 35 as may be emergent ; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the *sadr* station.

Temporary
vacancy of
office of Sub-
ordinate
Judge.

37. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any subordinate Court of the same district to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court ; but in every such case the registers and records of the two Courts shall be kept distinct.

¹ The removal and suspension of Subordinate Judges are now governed by rules made, or deemed to be made, under s. 241 (2) (b) of the G. of I. Act, 1935 (26 Geo. 5, ch. 2). See, however, para. 15 (2) of the G. of I. (Commencement and Transitory Provisions) Order, 1936.

(Part VIII.—Ministerial Officers, Part IX.—Miscellaneous.)

PART VIII.

MINISTERIAL OFFICERS.

38. ¹[Appointment, etc., of ministerial officers.] Rep. by the A. O. 1937.

39. The duties of "[the ministerial officers of the Civil Courts] shall be regulated by such rules as the High Court may from time to time prescribe. Duties of ministerial officers.

40. "[There may be appointed to any Civil Court under this Act] a clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register complaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers. Power to appoint clerks of the Courts.

⁴40A. [Power to transfer clerk of the Court or ministerial officer.] Rep. by the A. O. 1937.

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MISCELLANEOUS.

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted. Rules for keeping proceedings.

¹ See now ss. 241 and 276 of the G. of I. Act, 1935 (26 Geo. 5, ch. 2).

² Subs. by the A. O. 1937 for "the said ministerial officers".

³ Subs. by the A. O. 1937 for "[The District Judge] may, under the general control of [the Governor of Bombay in Council], appoint to any Civil Court under this Act [within the local limits of his jurisdiction]". The words in brackets were respectively substituted for the words "The Governor of Bombay in Council" and "the Governor General of India in Council" and inserted by the Bombay Civil Courts Amendment Act, 1900 (Bom. 1 of 1900), s. 7. As to appointment, see now s. 241 (1) (b) of the G. of I. Act, 1935 (26 Geo. 5, ch. 2).

⁴ Section 40A was ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. 1 of 1900), s. 8. The power to transfer is now governed by rules made, or deemed to be made, under s. 241 (2) (b) of the G. of I. Act, 1935 (26 Geo. 5, ch. 2).

(Part IX.—Miscellaneous.)

Licensed
petition-
writers.

¹[41A. (1) The High Court may, from time to time, make rules consistent with this Act and any other enactment for the time being in force—

(a) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate to it ;

(b) regulating the issue of licenses to such persons, the conduct of business by them, and the scale of fees to be charged by them ; and

(c) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made, and determining the authority by which such breaches of the rules shall be investigated and the penalties imposed.

(2) Every fine imposed under clause (c) of sub-section (1) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary jurisdiction.]

Fees for
Process.

42. The High Court shall from time to time, with the sanction of the ²[State Government], prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Tables of the fees so prescribed shall be published in the ³[Official Gazette].

Sittings of
Courts.

43. The District and Subordinate Courts shall sit from day to day except on Sundays, New Year's Day, Good Friday, ⁴[and Christmas Day], and such other days as may be sanctioned for each or every district by the High Court.

Vacation.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

THE SCHEDULE.—[Enactments repealed.] Rep. by the Repealing Act, 1870 (XIV of 1870).

¹ Ins. by the Bombay Civil Courts Amendment Act, 1900 (Bom. 1 of 1900).

² Subs. by the A. O. 1950 for "Provincial Government," which had been subs. by the A. O. 1937 for "Governor of Bombay in Council."

³ Subs. by the A. O. 1937 for "Govt. Gazette".

⁴ Subs. by the A. O. 1950 for "Christmas Day and Her Majesty's Birthday".

[THE UNCLAIMED DEPOSITS ACT, 1870.]

ACT NO. V OF 1870.

[4th February, 1870.]

An Act to enable the High Courts at the Presidency-towns to deal with cost of petitions for certain moneys transferred to Government.

WHEREAS the High Courts of Judicature at Fort William, Madras ^{Preamble.} and Bombay have no power to deal with the costs of petitions under section 4 of Act No. XXV of 1866 (to transfer to the Government of India certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay ^{2* * * * *} ^{3* * *} for payment of certain securities, moneys or proceeds transferred to Government ;

And whereas it is expedient to confer such power upon the said High Courts ;

It is hereby enacted as follows :—

1. Whenever any of the said Courts shall make an order on any such petition, the Court may direct by whom the whole or any part of the costs of each party are to be paid.

Power to direct by whom costs are to be paid.

THE COURT-FEES ACT, 1870.

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¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

For the Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 5 ; for Proceedings in Council, see *ibid*, 1869, Supplement, p. 1506 ; *ibid*, 1870, Supplement, pp. 53, 57, 92 and 136.

² The words "and in the Supreme Court of the Straits Settlements and the proceeds of certain estates in the charge of the Administrator General of Bengal" rep. by the Repealing Act, 1874 (16 of 1874).

³ The words "or under s. 60 of the Administrator General's Act, 1867" are omitted as the Administrator General's Act, 1867 (24 of 1867) and this Act so far as it relates to the Administrator General, were rep. by the Administrator General's Act, 1874 (2 of 1874).

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ACT No. VII OF 1870.¹

THE COURT-FEES ACT, 1870.

[11th March, 1870.]

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Court-fees Act, 1870.

Short title.

¹ For the Statement of Objects and Reasons, see Gazette of India, 1869, Pt. V, p. 57; for Proceedings in Council, see *ibid*, 1869, Supplement, pp. 1179 and 1452; *ibid*, 1870, Supplement, pp. 52, 378, 421, 427 and 434.

The Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in—

Santhal Parganas, by the Santhal Parganas Settlement Regulation (3 of 1872), s. 3;

Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2; and

Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has also been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

the District of Hazaribagh, see Gazette of India, 1881, Pt. I, p. 507;

the District of Lohardaga (now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44; the District of Lohardaga then included the present District of Palamau, separated in 1894), see Gazette of India, 1881, Pt. I, p. 508;

the District of Manbhum, see Gazette of India, 1881, Pt. I, p. 509;

the Pargana Dhalbhum in the District of Singbhum, see Gazette of India, 1881, Pt. I, p. 510;

the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt. I, p. 869;

the Tarai of the Province of Agra, see Gazette of India, 1876, Pt. 1, p. 505.

It has been extended by notification under s. 5 of the same Act to the Kolhan in the District of Singbhum, see Gazette of India, 1907, Pt. I, p. 655, and under ss. 5 and 5A of that Act with certain modifications to the Districts of the Khasi and Jaintia Hills, the Garo Hills, the Lushai Hills and the Naga Hills and the North Kachar Sub-division of the Kachar District, the Mikir Hill-tracts, in the Sibsagar and Nowgong Districts and the Lakhimpur frontier-tract, see notification No. 1541-F. (a), dated the 10th April 1930, Assam Gazette, 1930, Pt. II, p. 700.

It has been declared inapplicable to proceedings before officers making a settlement, and in certain other cases under the Santhal Parganas Settlement Regulation (3 of 1872), s. 8, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899).

It has been amended in—

Ajmer-Merwara by Act 31 of 1930;

Assam by Assam Acts 4 of 1922, 3 of 1932 and 18 of 1947;

Bengal by Bengal Acts 3 of 1898, 4 of 1922, 6 of 1922, 7 of 1935, 11 of 1935 and 3 of 1941;

Bihar by Bihar Act 17 of 1939;

Bihar and Orissa by B. & O. Act 2 of 1922;

Bombay by Bombay Acts 2 of 1932 and 15 of 1943;

*(Chapter I.—Preliminary. Chapter II.—Fees in the High Courts
and in the Courts of Small Causes at the Presidency-towns.)*

Extent of
Act.

It extends to ¹[the whole of India except Part B States.]

Commence-
ment of Act.

And it shall come into force on the first day of April, 1870.

Definition of
"Appro-
priate Gov-
ernment".

²[1A. In this Act "the Appropriate Government" means, in relation to fees or stamps relating to documents presented or to be presented before any officer serving under the Central Government, that Government, and in relation to any other fees or stamps, the ³[State] Government.]

⁴[2. "Chief Controlling Revenue-authority" defined.] Rep b₁, the A. O. 1937.

CHAPTER II.

FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY-TOWNS.

Levy of fees
in High
Courts on
their original
sides.

3. The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of ⁵[the High Courts for Part A States] ;

or chargeable in each of such Courts under No. 11 of the first, and Nos. 7, 12, 14, ⁶* 20 and 21 of the second schedule to this Act annexed ;

C. P. by C. P. Act 16 of 1935 ;

C. P. and Berar by C. P. and Berar Acts 9 of 1938, 16 of 1940, 9 of 1941, 5 of 1945 and 7 of 1948 ;

Madras by Madras Acts 5 of 1922 and 17 of 1945 ;

Orissa by Orissa Acts 5 of 1939 and 4 of 1945 ;

Punjab by Act 17 of 1887 and Punjab Acts 7 of 1922 and 1 of 1942 ; and

U. P. by U. P. Acts 12 of 1922, 3 of 1933, 2 of 1936, 19 of 1938, 9 of 1941, 14 of 1942, 8 of 1943 and 5 of 1944.

It has been repealed in part in partially excluded areas in Madras and Koraput by Madras Reg. 6 of 1940 and Orissa Reg. 7 of 1943, respectively.

It has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

¹ Subs. by the A. O. 1950 for "all the Provinces of India" which had been subs. by the A. O. 1948 for "the whole of British India".

² Ins. by the A. O. 1937.

³ Subs. by the A. O. 1950 for "Provincial".

⁴ The original s. 2 relating to repeal of enactments was rep. by the Repealing Act, 1870 (14 of 1870). A section defining "Chief Controlling Revenue-authority" was added by s. 2 of the Court-fees (Amendment) Act, 1901 (10 of 1901), and was slightly amended by the Repealing and Amending Act, 1917 (24 of 1917). For the definition of the "Chief Controlling Revenue-authority" see now the General Clauses Act, 1897 (10 of 1897), s. 3 (10).

The A. O. 1937 rep. s. 2 as in force elsewhere than in Bengal. In that Province the section subs. by the Court-fees (Bengal Amendment) Act, 1935 (Ben. 7 of 1935), s. 3, contains definitions of "appeal", "Chief Controlling Revenue-authority", "Collector" and "Suit".

⁵ Subs. by the A. O. 1950 for "the Courts which are High Courts for the purposes of the Government of India Act, 1935". These words were subs. by the A. O. 1948 for the original words as amended by the Repealing and Amending Act, 1917 (24 of 1917), s. 2 and Sch. I, and the A. O. 1937.

⁶ The number "16" rep. by the Amending Act, 1891 (12 of 1891).

(Chapter II.—Fees in the High Courts and in the Courts of Small Causes at the Presidency-towns.)

and the fees for the time being chargeable in the Courts of Small Causes at the ¹Presidency-towns, and their several offices, shall be collected in manner hereinafter appearing.

4. No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction ;

or in the exercise of its extraordinary original criminal jurisdiction ;

or in the exercise of its jurisdiction as regards appeals from the ²[judgments (other than judgments passed in the exercise of the ordinary original Civil Jurisdiction of the Court) of one] or more Judges of the said Court, or of a division Court ;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence ;

or in the exercise of its jurisdiction as a Court of reference or revision ;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

5. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the first Judge of such Court.

The Chief Justice shall declare who shall be taxing-officer within the meaning of the first paragraph of this section.

¹ See the Presidency Small Causes Courts Act, 1882 (15 of 1882), Ch. X.

² Subs. by the Court-fees (Amendment) Act, 1922 (19 of 1922), s. 2, for "judgment of two".

(Chapter III.—Fees in other Courts and in Public Offices.)

CHAPTER III.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

Fees on
documents
filed, etc., in
Mufassal
Courts or in
public
offices.

6. Except in the Courts hereinbefore mentioned, no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Computation
of fees pay-
able in
certain suits
for money ;

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

for mainte-
nance and
annuities ;

(i) In suits for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of other sums payable periodically)—according to the amount claimed:

for moveable
property
having a
market
value ;

(ii) In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

(iii) In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint:

(iv) In suits—

for moveable
property of
no market-
value ;
to enforce a
right to share
in joint
family pro-
perty ;

(a) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

(b) to enforce the right to share in any property on the ground that it is joint family property,

for a
declaratory
decree and
consequen-
tial relief ;

(c) to obtain a declaratory decree or order, where consequential relief is prayed,

for an
injunction ;

(d) to obtain an injunction,

for ease-
ments ;

(e) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts ;

(f) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal:

In all such suits the plaintiff shall state the amount at which he values the relief sought¹ * * * :

¹The words "and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted" rep. by the Amending Act, 1891 (12 of 1891).

(Chapter III.—Fees in other Courts and in Public Offices.)

(v) In suits for the possession of land, houses and gardens—
 according to the value of the subject-matter; and such
 value shall be deemed to be—

*for possession
 of lands,
 houses and
 gardens ;*

where the subject-matter is land, and—

(a) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—
 ten times the revenue so payable:

(b) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid,

and such revenue is settled, but not permanently—
 five times the revenue so payable:

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—
 fifteen times such nett profits:

but where no such nett profits have arisen therefrom—
 the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as abovementioned—the market-value of the land:

Provided that, in the territories subject to the Governor of Bombay in Council the value of the land shall be deemed to be—

*Proviso as
 to Bombay
 Presidency ;*

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment; and

¹ See para. 8 of the A. O. 1937. In view of this provision the expression "Governor of Bombay in Council" has been left unmodified.

(Chapter III.—Fees in other Courts and in Public Offices.)

- (3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted.

Explanation.—The word “estate” as used in this paragraph means any land subject to the payment of revenue, for which the proprietor or farmer or raiyat shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue:

for houses
and gardens:

(e) Where the subject-matter is a house or garden—according to the market-value of the house or garden:

to enforce a
right of pre-
emption:

- (vi) In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph (v) of this section) of the land, house or garden in respect of which the right is claimed:

for interest
of assignee
of land-
revenue;

- (vii) In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

to set aside
an attach-
ment:

- (viii) In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest.

to redeem:

- (ix) In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose;

and in suits by a mortgagee to foreclose the mortgage, or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage:

for specific
performance:

- (x) In suits for specific performance—

(a) of a contract of sale—according to the amount of the consideration:

(b) of contract of mortgage—according to the amount agreed to be secured:

(c) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term:

(d) of an award—according to the amount or value of the property in dispute:

(Chapter III.—Fees in other Courts and in Public Offices.)

- (xi) In the following suits between landlord and tenant:—
- (a) for the delivery by a tenant of the counterpart of a lease, between landlord and tenant.
 - (b) to enhance the rent of a tenant having a right of occupancy,
 - (c) for the delivery by a landlord of a lease,
 - ¹[(cc) for the recovery of immoveable property from a tenant, including a tenant holding over after the determination of a tenancy,]
 - (d) to contest a notice of ejectment,
 - (e) to recover the occupancy of ²[immoveable property] from which a tenant has been illegally ejected by the landlord, and
 - (f) for abatement of rent—

according to the amount of the rent of the ²[immoveable property] to which the suit refers, payable for the year next before the date of presenting the plaint.

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the ³acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant. Fee on memorandum of appeal against order relating to compensation.

9. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 7, paragraphs 5 and 6, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court. Power to ascertain nett profits or market-value.

10. (i) If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but, if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated. Procedure where nett profits or market-value wrongly estimated.

¹ Ins. by the Court-fees (Amendment) Act, 1905 (6 of 1905), s. 2 (1).

² Subs. by s. 2 (2), *ibid.*, for "land".

³ See now the Land Acquisition Act, 1894 (1 of 1894).

(Chapter III.—Fees in other Courts and in Public Offices.)

(ii) In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

1* * * * *

Procedure in
suits for
mesne profits
or account
when amount
decreed
exceeds
amount
claimed.

11. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of
question as
to valuation.

... **12.** (i) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

(ii) But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section 10, paragraph ii, shall apply.

Refund of
fee paid on
memoran-
dum of
appeal.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the ²Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in ³section 351 of the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

¹ Clause (iii) rep. by the Amending Act, 1891 (12 of 1891). The clause was as follows:—"Section 180 of the Code of Civil Procedure shall be construed as if the words 'the market-value of any property or' were inserted after the word 'ascertaining' and as if the words 'or annual nett profits' were inserted after the word 'damages'."

² See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

³ This reference should now be read as applying to the corresponding provision of Act 5 of 1908, i.e., Order XLI, rule 23 of the First Schedule.

(Chapter III.—Fees in other Courts and in Public Offices.)

Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

14. Where an ¹application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before ²such day. Refund of fee on application for review of judgment.

15. Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the ³[application] as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. 1, clause (b) or clause (d). Refund where Court reverses or modifies its former decision on ground of mistake.

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

16. [Additional fee where respondent takes objection to unappealed part of decree.] Rep. by the Code of Civil Procedure, 1908 (V of 1908).

17. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act. Multifarious suits.

Nothing in the former part of this section shall be deemed to affect the power conferred by the ⁴Code of Civil Procedure, section 9.

18. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a Written examinations of complainants.

¹ As to application for review of judgment, see the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 114 and Order XLVII of the First Schedule.

² See Sch. I, Nos. 4 and 5 *infra*.

³ Subs. by the Court-fees Act Amendment Act, 1870 (20 of 1870), s. 1, for "plaint or memorandum of appeal".

⁴ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(Chapter III.—Fees in other Courts and in Public Offices.)

petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the ¹Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Exemption
of certain
documents.

19. Nothing contained in this Act shall render the following documents chargeable with any fee:—

- (i) Power-of-attorney to institute or defend a suit when executed ²[by a member of any of the Armed Forces of the Union] not in civil employment.
- (ii) [Rep. by the Amending Act 1891 (XII of 1891).]
- (iii) Written statements called for by the Court after the first hearing of a suit.
- (iv) [Rep. by the Cantonments Act, 1889 (XIII of 1889).]
- (v) Plaints in suits tried by ³Village Munsifs in the Presidency of Fort St. George.
- (vi) Plaints and processes in suits before District Panchayats in the same Presidency.
- (vii) Plaints in suits before Collectors under Madras Regulation XII of 1816.
- (viii) Probate of a will, letters of administration, ⁴[and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827], where the amount or value of of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.
- (ix) Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.
- (x) Application relating to a supply for irrigation of water belonging to Government.
- (xi) Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

¹ This reference should now be read as referring to the Code of Criminal Procedure (Act 5 of 1898)—see s. 3 of that Act.

² Subs. by the A. O. 1950 for “by an Officer, Warrant-Officer, non-commissioned officer or private of Her Majesty’s army”.

³ See the Madras Village Courts Act, 1889 (Mad. 1 of 1889).

⁴ Subs. by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (2), for “and certificate mentioned in the First Schedule to this Act annexed, No. 12”.

(Chapter III.—Fees in other Courts and in Public Offices.)

- (xii) Application for service of notice of relinquishment of land or of enhancement of rent.
- (xiii) Written authority to an agent to distrain.
- (xiv) First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.
- (xv) Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.
- (xvi) Petition, application, charge or information respecting any offence when presented, made or laid to or before a Police-officer, or to or before the ¹Heads of Villages or the ²Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.
- (xvii) Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.
- (xviii) Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant ^{XLV} of 1860. of a Railway Company.
- (xix) Application for permission to cut timber in Government forests, or otherwise relating to such forests.
- (xx) Application for the payment of money due by Government to the applicant.
- (xxi) Petition of appeal against the chaukidari assessment under ³Act No. XX of 1856, or against any municipal tax.
- (xxii) Applications for compensation under any law for the time being in force relating to the ⁴acquisition of property for public purposes.
- (xxiii) Petitions presented to the Special Commissioner appointed under ⁵Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chota Nagpur*).
- (xxiv) ⁶[Petitions under the Indian Christian Marriage Act, 1872, ^{XV} of 1872. sections 45 and 48.]

¹ See Madras Regulations 11 of 1816 and 4 of 1821, s. 6.

² See Bombay Village Police Act, 1867 (Bom. 8 of 1867), ss. 14, 15 and 16.

³ The Bengal Chaukidari Act, 1856.

⁴ See now the Land Acquisition Act, 1894 (1 of 1894).

⁵ The Chota Nagpur Tenures Act, 1869.

⁶ Subs. by the Indian Christian Marriage Act, 1872 (15 of 1872), s. 2, for the original cl. which read as follows:—"petitions under the 14th and 15th of Victoria, Ch. 40 (*an Act for marriages in India*), s. 5, or under Act No. 5 of 1852, s. 9".

(Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.)

¹[CHAPTER IIIA.]

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

Relief where too high a court-fee has been paid.

19A. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue-authority ²[for the local area] in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may—

- (a) cancel the stamp on the probate or letters if such stamp has not been already cancelled;
- (b) substitute another stamp for denoting the court-fee which should have been paid thereon; and
- (c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

Relief where debts due from a deceased person have been paid out of his estate.

19B. Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof

¹ Chapter IIIA ins. by the Probate and Administration Act, 1875, (13 of 1875), s. 6.

² Subs. by the Court-fees (Amendment) Act, 1901 (10 of 1901), s. 3 (1), for "of the Province".

(Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.)

the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

19C. Whenever ^{1*} a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate. Relief in case of several grants.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees than actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

19D. The probate of the will or the letters of administration of the effects of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration. Probates declared valid as to trust-property though not covered by court-fee.

19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue-authority ²[for the local area] in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of grant, of five times, or, if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters : Provision for case where too low a court-fee has been paid on probates, &c.

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters,

¹ The word "such" rep. by the Amending Act, 1891 (12 of 1891).

² Subs. by the Court-fees (Amendment) Act, 1901 (10 of 1901), s. 3 (1), for "of the Province".

(Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.)

and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the said Authority may remit the said penalty and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administra-
tor to give
proper secu-
rity before
letters
stamped
under section
19E.

19F. In case of letters of administration on which too low a court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

Executors,
etc., not
paying full
court-fee on
probates,
etc., within
six months
after discov-
ery of under-
payment.

19G. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months ²* * * * after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court-fee.

Notice of
applications
for probate
or letters of
administra-
tion to be
given to
Revenue-
authorities,
and proce-
dure thereon.

[19H. (1)] Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to a High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue-authority ⁴[for the local area in which the High Court is situated].

(3) The Collector within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or

¹ As to recovery of penalties or forfeitures under s. 19G, see s. 19J, *infra*.

² The words and figures "after the first day of April 1875, or" rep. by the Amending Act, 1891 (12 of 1891).

³ Ins. by the Court-fees Amendment Act, 1899 (11 of 1899), s. 2.

⁴ Subs. by the Court-fees Amendment Act, 1901 (10 of 1901), s. 3 (2), for "of the Provinces".

(Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration.)

letters of administration has been made ; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(4) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property:

X of 1885.
V of 1881.

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the ¹Indian Succession Act, 1865, or, as the case may be, by section 98 of ¹the Probate and Administration Act, 1881.

(5) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(6) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(7) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue-authority of any application under section 19E.

(8) The ²[State Government] may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).]

³[19L (1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third schedule, and the Court is satisfied that the fee mentioned in No. 11 of the first schedule has been paid on such valuation.

Payment of court-fees in respect of probates and letters of administration.

¹ See now the Indian Succession Act, 1925 (39 of 1925).

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "L. G."

³ Ins. by the Court-fees Amendment Act, 1899 (11 of 1899), s. 2.

(Chapter IIIA.—Probates, Letters of Administration and Certificates of Administration. Chapter IV.—Process-fees.)

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4).]

Recovery of penalties, etc.

¹[19J. (1) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (6), and any penalty or forfeiture under section 19G, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector * * * .

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.]

Sections 6 and 28 not to apply to probates or letters of administration.

³[19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration.]]

CHAPTER IV.

PROCESS-FEES.

Rules as to cost of processes.

20. The High Court shall, as soon as may be, make rules as to the following matters:—

(i) The fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction;

(ii) the fees chargeable for serving and executing processes issued by the Criminal Courts, established within such limits in the case of offences other than offences for which police-officers may arrest without a warrant; and

(iii) the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time alter and add to the rules so made.

Confirmation and publication of rules.

All such rules, alterations and additions shall, after being confirmed by the ⁴[State Government] * * * * be published in the ⁶[Official Gazette], and shall thereupon have the force of law.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

¹ Ins. by the Court-fees Amendment Act, 1899 (11 of 1899), s. 2.

³ The words "in any part of British India" rep. by the A. O. 1948.

⁴ Ins. by the Court-fees Amendment Act, 1899 (11 of 1899), s. 2.

⁶ See footnote 2 on p. 595, *supra*.

⁵ The words "and sanctioned by the Governor General of India in Council" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁶ Subs. by the A. O. 1937 for "local official Gazette".

(Chapter IV.—Process-fees. Chapter V.—Of the Mode of Levying Fees.)

21. A table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

22. Subject to rules to be made by the High Court and approved by the ¹[State Government] * * * , every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

and for the purposes of this section, every Court of Small Causes established under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature)³ shall be deemed to be subordinate to the Court of the District Judge.

23. Subject to rules to be framed by the Chief Controlling Revenue-authority and approved by the ¹[State Government] * * * every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

24. [Process served under this Chapter to be held to be process within meaning of Code of Civil Procedure.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

CHAPTER V.

OF THE MODE OF LEVYING FEES.

25. All fees referred to in section 3 or chargeable under this Act shall be collected by stamps.

26. The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive, or partly impressed and partly adhesive, as the ⁴[Appropriate Government] may, by notification in the ⁵[Official Gazette] from time to time direct.⁶

¹ See footnote 2 on p. 595, *supra*.

² The words "and the Governor General of India in Council" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

³ The reference to Act 11 of 1865 should now be read as referring to the Provincial Small Cause Courts Act, 1887 (9 of 1887): see s. 2 (3) of that Act.

⁴ Subs. by the A. O. 1937 for "L. G." which had been subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "Governor General of India in Council".

⁵ Subs. by the A. O. 1937 for "local official Gazette" which had been subs. for "Gazette of India" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁶ For rules as to levy of court-fees by adhesive and impressed stamps, see Gazette of India, 1883, Pt. I, p. 189.

Tables of
process-fees.

Number of
peons in
District and
subordinate
Courts.

Number of
peons in
Mufassal
Small Cause
Courts.

Number of
peons in
Revenue
Courts.

Collection
of fees by
stamps.

Stamps to be
impressed
or adhesive.

(Chapter V.—Of the Mode of Levying Fees. Chapter VI.—Miscellaneous.)

Rules for supply, number, renewal and keeping accounts of stamps.

27. The ¹[Appropriate Government] may, from time to time, make rules for regulating—

- (a) the supply of stamps to be used under this Act ;
- (b) the number of stamps to be used for denoting any fee chargeable under this Act ;
- (c) the renewal of damaged or spoiled stamps ; and
- (d) the keeping accounts of all stamps used under this Act :

Provided that, in the case of stamps used under section 3 in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the ²[Official Gazette], and shall thereupon have the force of law.

Stamping documents inadvertently received.

28. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

But, if any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct ; and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Amended document.

29. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Cancellation of stamp.

30. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER VI.

MISCELLANEOUS.

31. [Repayment of fees paid on applications to Criminal Courts.] Rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923), s. 163.

¹ Subs. by the A. O. 1937 for "L. G.".

² Subs. by the A. O. 1937 for "local official Gazette".

(Chapter VI.—Miscellaneous.)

32. [Amendment of Act VIII of 1859 and Act IX of 1869.] Rep. by Amending Act, 1891 (XII of 1891).

33. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

Admission in criminal cases of documents for which proper fee has not been paid.

¹[34. (1) The ²[Appropriate Government] may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

Sale of stamps.

(2) All such rules shall be published in the ³[Official Gazette], and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.]

35. The ⁴[Appropriate Government] may, from time to time by notification in the ⁵[Official Gazette] reduce or remit, in the whole or in any part of ⁶[the territories under its administration] all or any of the fees mentioned in the first and second schedules to this Act annexed, and may in like manner cancel or vary such order.

Power to reduce or remit fees.

36. Nothing in Chapters II and V of this Act applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Courts.

¹ Subs. for the original section by the Amending Act, 1891 (12 of 1891).

² Subs. by the A. O. 1937 for "L. G.".

³ Subs. by the A. O. 1937 for "local official Gazette".

⁴ Subs. by the A. O. 1937 for "L. G." which had been subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "Governor General of India in Council".

⁵ Subs. by the A. O. 1937 for "local official Gazette" which had been subs. for "Gazette of India" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁶ Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch I for "British India".

(Schedule I.—*Ad valorem fees.*)

SCHEDULE I.

Ad valorem fees.

Number.	—	Proper Fee.
<p>1. 'Plaint '[written statement pleading a set-off or counter-claim] or memorandum of appeal (not otherwise provided for in this Act) '[or of cross-objection] presented to any Civil or Revenue Court except those mentioned in section 3.</p>	When the amount or value of the subject-matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	Twelve annas.
	When such amount or value exceeds one thousand rupees for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Ten rupees.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Twenty rupees.

¹ To ascertain the proper fee leviable on the institution of a suit, see the table annexed to this Schedule.

² Ins. by the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 155 and Sch. IV.

(Schedule I.—*Ad valorem fees.*)SCHEDULE I—*contd.**Ad valorem fees—contd.*

Number.	—	Proper Fee.
	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Twenty rupees.
1. <i>Plaint, etc.—contd.</i>	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Twenty-five rupees.
	Provided that the maximum fee leviable on a <i>plaint</i> or memorandum of appeal shall be three thousand rupees.	
2. <i>Plaint</i> ^{1***} in a suit for possession under ² [the Specific Relief Act, 1877, section 9].	....	A fee of one-half the amount prescribed in the foregoing scale.
3. [<i>Repealed by Act VIII of 1871.</i>]		
4. <i>Application</i> for review of judgment, ³ if presented on or after the ninetieth day from the date of the decree.	....	The fee leviable on the <i>plaint</i> or memorandum of appeal.
5. <i>Application</i> for review of judgment, ³ if presented before the ninetieth day from the date of the decree.	....	One-half of the fee leviable on the <i>plaint</i> or memorandum of appeal.
6. Copy or translation of a judgment or order not being, or having the force of, decree.	When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority— (a)—If the amount or value of the subject-matter is fifty or less than fifty rupees.	Four annas.

¹ The words "or memorandum of appeal" rep. by the Court-fees Act Amendment Act, 1870 (20 of 1870).

² Subs. by the Amending Act, 1891 (12 of 1891) for "Act No. 14 of 1859 (to provide for the limitation of suits)".

³ As to application for review of judgment, see the Code of Civil Procedure, 1908 (Act 5 of 1908).

(Schedule I.—*Ad valorem* fees.)SCHEDULE I—*contd.**Ad valorem* fees—*contd.*

Number.	—	Proper Fee.
6. Copy, etc.— <i>contd.</i>	(b)—If such amount or value exceeds fifty rupees.	Eight annas.
	When such judgement or order is passed by a High Court.	One rupee.
	When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—	
7. Copy of a decree or order having the force of a decree.	(a)—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees.	Eight annas.
	(b)—If such amount or value exceeds fifty rupees.	One rupee.
	When such decree or order is made by a High Court.	Four rupees.
8. Copy of any document liable to stamp-duty under the Indian Stamp Act, 1879, ¹ when left by any party to a suit or proceeding in place of the original withdrawn,	(a)—When the stamp-duty chargeable on the original does not exceed eight annas.	The amount of the duty chargeable on the original.
	(b)—In any other case . . .	Eight annas.
9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or Office, or from the office of any chief officer charged with the executive administration of a Division.	For every three hundred and sixty words or fraction of three hundred and sixty words.	Eight annas.
10. [<i>Repealed by the Guardians and Wards Act, 1890 (VIII of 1890).</i>]	....	....
² [11. Probate of a will or letters of administration with or without will annexed.]	³ When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, but does not exceed ten thousand rupees.	Two per centum on such amount or value.

¹ See now the Indian Stamp Act, 1899 (2 of 1899).² Subs. by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (1), for the original Article 11.³ These items were subs. by the Court-fees (Amendment) Act, 1910 (7 of 1910), s. 2 (i).

(Schedule I.—*Ad valorem fees.*)SCHEDULE I—*contd.**Ad valorem fees—contd.*

Number.	—	Proper Fee.
VII of 1889,	11. Probate, etc.— <i>contd.</i>	When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.
		Two and one-half per centum on such amount or value.
VII of 1889. 1889.	[12. Certificate under the Succession Certificate Act,	When such amount or value exceeds fifty thousand rupees. Provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or under the Regulation of the Bombay Code, No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
		Three per centum on such amount or value.]]
VII of 1889. 1889.	[12. Certificate under the Succession Certificate Act,	In any case . . .
		Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
VII of 1889. 1889.	[12. Certificate under the Succession Certificate Act,	NOTE.—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.
		(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act; and where such a power has been so conferred whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.]

¹ Subs. for original Art. 12 by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (1).

(Schedule I.—*Ad valorem fees.*)SCHEDULE I—*contd.**Ad valorem fees—concl'd.*

Number.	—	Proper Fee.
¹ 12A. Certificate under the Regulation of the Bombay Code, No. VIII of 1827.	<p>²[(1) As regards debts and securities.</p> <p>(2) As regards other property in respect of which the certificate is granted—</p> <p>When the amount or value of such property exceeds one thousand rupees, but does not exceed ten thousand rupees.</p> <p>When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.</p> <p>When such amount or value exceeds fifty thousand rupees.</p>	<p>The same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889³, or in respect of an extension of such a certificate, as the case may be.</p> <p>Two per centum on such amount or value.</p> <p>Two and one-half per centum on such amount or value.</p> <p>Three per centum on such amount or value.]</p>
¹ 13. Application to the "High Court of "[Punjab]" for the exercise of its jurisdiction under section 44 of the Punjab Courts Act, 1918 or to the Court of the Financial Commissioner of "[Punjab]" for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887.	<p>When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.</p> <p>When such amount or value exceeds twenty-five rupees.</p>	<p>Two rupees.</p> <p>The fee leviable on a memorandum of appeal.</p>
¹ 14. * * * *		
¹ 15. * * * *		

VII 1889.

Punjab VI of 1918.

X VI of 1887.

¹ Subs. for original Art. 12-A by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (1).

² These items were subs. by the Court-fees (Amendment) Act, 1910 (7 of 1910), s. 2 (ii).

³ Originally ins. by the Punjab Courts Act, 1884 (18 of 1884), s. 71, as amended by the Punjab Courts Act, 1899 (25 of 1899), s. 6. Article 13 was rep. in the Punjab by s. 5 of the Punjab Courts (Amendment) Act, 1912 (Punjab 1 of 1912); but it has since been revived in this form by the Court-fees (Punjab Amendment) Act, 1922 (Punjab 7 of 1922).

⁴ Subs. by the A. O. 1948 for "High Court of Judicature at Lahore".

⁵ Subs. by the A. O. 1950 for "East Punjab".

⁶ Subs. by the A. O. 1950 for "East Punjab" which had been subs. by the A. O. 1948 for "the Punjab".

⁷ Rep. by the A. O. 1937.

⁸ Rep. by the Repealing and Amending Act, 1923 (11 of 1923), s. 3 and Sch. II.

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees leviable on the institution of suits.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
..	5	0 6 0
5	10	0 12 0
10	15	1 2 0
15	20	1 8 0
20	25	1 14 0
25	30	2 4 0
30	35	2 10 0
35	40	3 0 0
40	45	3 6 0
45	50	3 12 0
50	55	4 2 0
55	60	4 8 0
60	65	4 14 0
65	70	5 4 0
70	75	5 10 0
75	80	6 0 0
80	85	6 6 0
85	90	6 12 0
90	95	7 2 0
95	100	7 8 0
100	110	8 4 0
110	120	9 0 0
120	130	9 12 0
130	140	10 8 0
140	150	11 4 0
150	160	12 0 0
160	170	12 12 0

(Schedule I.—Table of rates of *ad valorem* fees, etc.)

SCHEDULE I—contd.

Table of rates of *ad valorem* fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
170	180	13 8 0
180	190	14 4 0
190	200	15 0 0
200	210	15 12 0
210	220	16 8 0
220	230	17 4 0
230	240	18 0 0
240	250	18 12 0
250	260	19 8 0
260	270	20 4 0
270	280	21 0 0
280	290	21 12 0
290	300	22 8 0
300	310	23 4 0
310	320	24 0 0
320	330	24 12 0
330	340	25 8 0
340	350	26 4 0
350	360	27 0 0
360	370	27 12 0
370	380	28 8 0
380	390	29 4 0
390	400	30 0 0
400	410	30 12 0
410	420	31 8 0
420	430	32 4 0
430	440	33 0 0
440	450	33 12 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
450	460	34 8 0
460	470	35 4 0
470	480	36 0 0
480	490	36 12 0
490	500	37 8 0
500	510	38 4 0
510	520	39 0 0
520	530	39 12 0
530	540	40 8 0
540	550	41 4 0
550	560	42 0 0
560	570	42 12 0
570	580	43 8 0
580	590	44 4 0
590	600	45 0 0
600	610	45 12 0
610	620	46 8 0
620	630	47 4 0
630	640	48 0 0
640	650	48 12 0
650	660	49 8 0
660	670	50 4 0
670	680	51 0 0
680	690	51 12 0
690	700	52 8 0
700	710	53 4 0
710	720	54 0 0
720	730	54 12 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
730	740	55 8 0
740	750	56 4 0
750	760	57 0 0
760	770	57 12 0
770	780	58 8 0
780	790	59 4 0
790	800	60 0 0
800	810	60 12 0
810	820	61 8 0
820	830	62 4 0
830	840	63 0 0
840	850	63 12 0
850	860	64 8 0
860	870	65 4 0
870	880	66 0 0
880	890	66 12 0
890	900	67 8 0
900	910	68 4 0
910	920	69 0 0
920	930	69 12 0
930	940	70 8 0
940	950	71 4 0
950	960	72 0 0
960	970	72 12 0
970	980	73 8 0
980	990	74 4 0
990	1,000	75 0 0
1,000	1,100	80 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
1,100	1,200	85 0 0
1,200	1,300	90 0 0
1,300	1,400	95 0 0
1,400	1,500	100 0 0
1,500	1,600	105 0 0
1,600	1,700	110 0 0
1,700	1,800	115 0 0
1,800	1,900	120 0 0
1,900	2,000	125 0 0
2,000	2,100	130 0 0
2,100	2,200	135 0 0
2,200	2,300	140 0 0
2,300	2,400	145 0 0
2,400	2,500	150 0 0
2,500	2,600	155 0 0
2,600	2,700	160 0 0
2,700	2,800	165 0 0
2,800	2,900	170 0 0
2,900	3,000	175 0 0
3,000	3,100	180 0 0
3,100	3,200	185 0 0
3,200	3,300	190 0 0
3,300	3,400	195 0 0
3,400	3,500	200 0 0
3,500	3,600	205 0 0
3,600	3,700	210 0 0
3,700	3,800	215 0 0
3,800	3,900	220 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.
3,900	4,000	225 0 0
4,000	4,100	230 0 0
4,100	4,200	235 0 0
4,200	4,200	240 0 0
4,300	4,400	245 0 0
4,400	4,500	250 0 0
4,500	4,600	255 0 0
4,600	4,700	260 0 0
4,700	4,800	265 0 0
4,800	4,900	270 0 0
4,900	5,000	275 0 0
5,000	5,250	285 0 0
5,250	5,500	295 0 0
5,500	5,750	305 0 0
5,750	6,000	315 0 0
6,000	6,250	325 0 0
6,250	6,500	335 0 0
6,500	6,750	345 0 0
6,750	7,000	355 0 0
7,000	7,250	365 0 0
7,250	7,500	375 0 0
7,500	7,750	385 0 0
7,750	8,000	395 0 0
8,000	8,250	405 0 0
8,250	8,500	415 0 0
8,500	8,750	425 0 0
8,750	9,000	435 0 0
9,000	9,250	445 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee
Rs.	Rs.	Rs. A. P.
9,250	9,500	455 0 0
9,500	9,750	465 0 0
9,750	10,000	475 0 0
10,000	10,500	490 0 0
10,500	11,000	505 0 0
11,000	11,500	520 0 0
11,500	12,000	535 0 0
12,000	12,500	550 0 0
12,500	13,000	565 0 0
13,000	13,500	580 0 0
13,500	14,000	595 0 0
14,000	14,500	610 0 0
14,500	15,000	625 0 0
15,000	15,500	640 0 0
15,500	16,000	655 0 0
16,000	16,500	670 0 0
16,500	17,000	685 0 0
17,000	17,500	700 0 0
17,500	18,000	715 0 0
18,000	18,500	730 0 0
18,500	19,000	745 0 0
19,000	19,500	760 0 0
19,500	20,000	775 0 0
20,000	21,000	795 0 0
21,000	22,000	815 0 0
22,000	23,000	835 0 0
23,000	24,000	855 0 0
24,000	25,000	875 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee
Rs.	Rs.	Rs. A. P.
25,000	26,000	895 0 0
26,000	27,000	915 0 0
27,000	28,000	935 0 0
28,000	29,000	955 0 0
29,000	30,000	975 0 0
30,000	32,000	995 0 0
32,000	34,000	1,015 0 0
34,000	36,000	1,035 0 0
36,000	38,000	1,055 0 0
38,000	40,000	1,075 0 0
40,000	42,000	1,095 0 0
42,000	44,000	1,115 0 0
44,000	46,000	1,135 0 0
46,000	48,000	1,155 0 0
48,000	50,000	1,175 0 0
50,000	55,000	1,200 0 0
55,000	60,000	1,225 0 0
60,000	65,000	1,250 0 0
65,000	70,000	1,275 0 0
70,000	75,000	1,300 0 0
75,000	80,000	1,325 0 0
80,000	85,000	1,350 0 0
85,000	90,000	1,375 0 0
90,000	95,000	1,400 0 0
95,000	1,00,000	1,425 0 0
1,00,000	1,05,000	1,450 0 0
1,05,000	1,10,000	1,475 0 0
1,10,000	1,15,000	1,500 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee
Rs.	Rs.	Rs. A. P.
1,15,000	1,20,000	1,525 0 0
1,20,000	1,25,000	1,550 0 0
1,25,000	1,30,000	1,575 0 0
1,30,000	1,35,000	1,600 0 0
1,35,000	1,40,000	1,625 0 0
1,40,000	1,45,000	1,650 0 0
1,45,000	1,50,000	1,675 0 0
1,50,000	1,55,000	1,700 0 0
1,55,000	1,60,000	1,725 0 0
1,60,000	1,65,000	1,750 0 0
1,65,000	1,70,000	1,775 0 0
1,70,000	1,75,000	1,800 0 0
1,75,000	1,80,000	1,825 0 0
1,80,000	1,85,000	1,850 0 0
1,85,000	1,90,000	1,875 0 0
1,90,000	1,95,000	1,900 0 0
1,95,000	2,00,000	1,925 0 0
2,00,000	2,05,000	1,950 0 0
2,05,000	2,10,000	1,975 0 0
2,10,000	2,15,000	2,000 0 0
2,15,000	2,20,000	2,025 0 0
2,20,000	2,25,000	2,050 0 0
2,25,000	2,30,000	2,075 0 0
2,30,000	2,35,000	2,100 0 0
2,35,000	2,40,000	2,125 0 0
2,40,000	2,45,000	2,150 0 0
2,45,000	2,50,000	2,175 0 0
2,50,000	2,55,000	2,200 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee
Rs.	Rs.	Rs. A. P.
2,55,000	2,60,000	2,225 0 0
2,60,000	2,65,000	2,250 0 0
2,65,000	2,70,000	2,275 0 0
2,70,000	2,75,000	2,300 0 0
2,75,000	2,80,000	2,325 0 0
2,80,000	2,85,000	2,350 0 0
2,85,000	2,90,000	2,375 0 0
2,90,000	2,95,000	2,400 0 0
2,95,000	3,00,000	2,425 0 0
3,00,000	3,05,000	2,450 0 0
3,05,000	3,10,000	2,475 0 0
3,10,000	3,15,000	2,500 0 0
3,15,000	3,20,000	2,525 0 0
3,20,000	3,25,000	2,550 0 0
3,25,000	3,30,000	2,575 0 0
3,30,000	3,35,000	2,600 0 0
3,35,000	3,40,000	2,625 0 0
3,40,000	3,45,000	2,650 0 0
3,45,000	3,50,000	2,675 0 0

(Schedule I.—Table of rates of ad valorem fees, etc.)

SCHEDULE I—contd.

Table of rates of ad valorem fees, etc.—contd.

When the amount or value of the subject-matter exceed	But does not exceed	Proper Fee
Rs.	Rs.	Rs. A. P.
3,50,000	3,55,000	2,700 0 0
3,55,000	3,60,000	2,725 0 0
3,60,000	3,65,000	2,750 0 0
3,65,000	3,70,000	2,775 0 0
3,70,000	3,75,000	2,800 0 0
3,75,000	3,80,000	2,825 0 0
3,80,000	3,85,000	2,850 0 0
3,85,000	3,90,000	2,875 0 0
3,90,000	3,95,000	2,900 0 0
3,95,000	4,00,000	2,925 0 0
4,00,000	4,05,000	2,950 0 0
4,05,000	4,10,000	2,975 0 0
4,10,000	..	3,000 0 0

(Schedule II.—Fixed fees.)

SCHEDULE II.

Fixed fees.

Number.	—	Proper Fee.
1. Application or petition .	(a)—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings;	One anna.

(Schedule II.—Fixed fees.)

SCHEDULE II—contd.

Fixed fees—contd.

Number.	—	Proper Fee.
1. Application or petition— <i>contd.</i>	<p>or when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement ;</p> <p>or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement ;</p> <p>or when presented to any Civil Court other than a principal Civil Court of original jurisdiction. 1 * * * *</p> <p>or to any Court of Small Causes constituted under Act² No. XI of 1865 or under Act³ No. XVI of 1868, section 20 or to a collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;</p>	<p>One anna.</p>

¹ The words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859" rep. by the Cantonments Act, 1889 (13 of 1889).

² See now the Provincial Small Causes Courts Act, 1887 (9 of 1887), by which Act 11 of 1865 was repealed.

³ See now the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), s. 25.

(Schedule II.—Fixed fees.)

SCHEDULE II—contd.

Fixed fees—contd.

Number.	—	Proper Fee.
1. Application or petition— <i>could.</i>	<p>or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.</p> <p>(b)—When containing a complaint or charge of any offence other than an offence for which police-officers may, under the Criminal Procedure Code,¹ arrest without warrant and presented to any Criminal Court ;</p> <p>or when presented to a Civil, Criminal or Revenue Court, or to a collector, or any Revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;</p> <p>or to deposit in Court revenue or rent ;</p> <p>or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.</p> <p>(c)—When presented to a Chief Commissioner or other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the</p>	<p>One anna.</p> <p>Eight annas.</p>

¹ See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

(Schedule II.—Fixed fees.)

SCHEDULE II—contd.

Fixed fees—contd.

Number,	—	Proper Fee.
1. Application or petition— <i>concl'd.</i>	executive administration of a division and not otherwise provided for by this Act.	
	(d)—When presented to a High Court.	Two rupees.
¹ [1A. Application to any Civil Court that records may be called for from another Court.	When the Court grants the application and is of opinion that the transmission of such records involves the use of the post.	Twelve annas in addition to any fee levied on the application under clause (a), clause (b) or clause (d) of article 1 of this Schedule.] Eight annas.
2. Application for leave to sue as a pauper.		
3. Application for leave to appeal as a pauper.	(a)—When presented to a District Court.	One Rupee.
	(b)—When presented to a Commissioner or a High Court.	Two rupees.
4. Complaint or memorandum of appeal in a suit to obtain possession under ² Act No. XVI of 1838, or ³ [the 'Mamlatdars' Courts Act, 1876.]		
5. Complaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.		
⁴ [6. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908 and not otherwise provided for by this Act.]	.....	Eight annas.
7. Undertaking under section 49 of the Indian Divorce Act.		
8. [<i>Rep. by the Repealing and Amending Act, 1891 (XII of 1891).</i>]		
9. [<i>Repealed by Act (XII of 1891).</i>]		
10. Mukhtarnama or Wakalatnama.	When presented for the conduct of any one case— (a)—to any Civil or Criminal Court other than a High Court, or to any	

Bom, III of 1876.

V of 1898.
V of 1908.

IV of 1869.

¹ Ins. by the Court-fees (Amendment) Act, 1911 (14 of 1911), s. 2.² The Bombay Courts of Adalat Act, 1838.³ Subs. by the Amending Act, 1891 (12 of 1891), for "Bombay Act 5 of 1864 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession, or to restore possession to any party dispossessed otherwise than by course of law)".⁴ See now the Mamlatdars' Courts Act, 1906 (Bom. 2 of 1906).⁵ Subs. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 2.

(Schedule II.—Fixed fees.)

SCHEDULE II—contd.

Fixed fees—contd.

Number.	—	Proper Fee.
10. Mukhtárnáma or Wakalatnáma— <i>contd.</i>	Revenue Court, or to any Collector or Magistrate, or other executive officer except such as are mentioned in clauses (b) and (c) of this number.	
	(b)—to a Commissioner of Revenue, Circuit or Customs or to any officer charged with the executive administration of a Division, not being the Chief Revenue or Executive Authority.	One rupee.
	(c)—to a High Court, Chief Commissioner, Board of Revenue, or other Chief Controlling Revenue or Executive Authority.	Two rupees.
11. Memorandum of appeal when the appeal is not * * * from a decree or an order having the force of a decree, and is presented—	(a)—to any Civil Court other than a High Court, or to any Revenue Court or Executive Officer other than the High Court or Chief Controlling Revenue or Executive Authority.	Eight annas.
	(b)—to a high Court or Chief Commissioner, or other Chief Controlling Executive or Revenue Authority.	Two rupees.
12. Caveat. 13. Application under Act ² No. X of 1859, section 26, or *Bengal Act No. VI of 1862, section 9, or *Bengal Act No. VIII of 1869, section 37.	....	Five rupees.

¹ The words "from an order rejecting a plaint or" were omitted by the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 155 and Sch. IV.

² Act X of 1859 rep. by the Bengal Tenancy Act, 1885 (8 of 1885), in those portions of the Lower Provinces to which that Act extends; in the Chota Nagpur Division (except Manbhum and the Tributary Mahals) by the Chota Nagpur Landlord and Tenant Procedure Act, 1879 (Ben. 1 of 1879), [now repealed by the Chota Nagpur Tenancy Act, 1908 (Ben. 6 of 1908)]; in the Province of Agra by Act XVIII of 1873; and in the C. P. by the C. P. Tenancy Act, 1883 (9 of 1883).

³ Bengal Act 6 of 1862 rep. by the Bengal Tenancy Act, 1885 (8 of 1885) so far as it affected those portions of the Lower Provinces to which that Act extends; and in the Chota Nagpur Division (except Manbhum and the Tributary Mahals) by the Chota Nagpur Landlord and Tenant Procedure Act, 1879 (Ben. 1 of 1879) [rep. by the Chota Nagpur Tenancy Act, 1908 (Ben. 6 of 1908)].

⁴ Bengal Act 8 of 1869 rep. by the Bengal Tenancy Act, 1885 (8 of 1885).

(Schedule II.—Fixed fees.)

SCHEDULE II—contd.

Fixed fees—contd.

Number.	—	Proper Fee.	
14. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866.	....	Five rupees.	XXI of 1866,
15. [Rep. by Act V of 1908.]			
16. [Rep. by Act VI of 1889, s. 18 (I).]			
17. Complaint or memorandum of appeal in each of the following suits:—			
i. to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court:			
ii. to alter or cancel any entry in a register of the names of proprietors of revenue-paying estates:			
iii. to obtain a declaratory decree where no consequential relief is prayed;			
iv. to set aside an award:			
v. to set aside an adoption:	....	Ten rupees.	
vi. every other suit where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by this Act.			
18. Application under section 326 of the Code of Civil Procedure. ¹			
² [19. Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908.]			V of 1908.
20. Every petition under the Indian Divorce Act, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.	....	Twenty rupees.	IV of 1963.
21. Complaint or memorandum of appeal under the ³ Parsi Marriage and Divorce Act, 1865.			XV of 1865.

¹ See now the Arbitration Act, 1940 (10 of 1940).² Subs. by s. 155 and Sch. 4 of the Code of Civil Procedure (Act 5 of 1908) for the original entry which was as follows:—"Agreement under section 328 of the same Code."³ See now the Parsi Marriage and Divorce Act, 1936 (3 of 1936).

(Schedule III.—Form of Valuation.)

'SCHEDULE III.

(See section 19—I.)

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS
MAY BE NECESSARY).

IN THE COURT OF
Re Probate of the Will of (or administration of the property
and credits of), deceased.

I

solemnly affirm
make oath

and say that I am the executor (or one of the executors or one of the next-of kin) of , deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the above-named deceased died possessed or was entitled to at the time of his death, and which have come or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of

ANNEXURE A.

	Rs.	A.	P.
VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF DECEASED.			
Cash in the house and at the banks, household goods, wearing-apparel, books, plate, jewels, etc.			
(State estimated value according to best of Executor's or Administrator's belief.)			
Property in Government securities transferable at the Public Debt Office.			
(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)			
Immoveable property consisting of			
(State description, giving, in the case of houses the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.)			
Leasehold property			
(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)			

¹ This Sch. was ins. by the Court-fees Amendment Act, 1899 (11 of 1899), s. 3. The original Sch. III was rep. by the Repealing Act, 1870 (14 of 1870).

(Schedule III.—Form of Valuation.)

Female Infanticide Prevention. [1870 : Act VII.]

SCHEDULE III—contd.

	Rs.	A.	P.
Property in public companies (State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.)			
Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money. (State the amount of the whole; also the interest separately, calculating it to the time of making the application.)			
Book debts (Other than bad.)			
Stock in trade (State the estimated value, if any.)			
Other property not comprised under the foregoing heads (State the estimated value, if any.)			
TOTAL			
Deduct amount shown in Annexure B not subject to duty			
NET TOTAL			
ANNEXURE B.			
SCHEDULE OF DEBTS, ETC.			
	Rs.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses			
Amount of mortgage incumbrances			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty			
TOTAL			

¹[THE FEMALE INFANTICIDE PREVENTION ACT,
1870.]

ACT NO. VIII OF 1870.

[18th March, 1870.]

An Act for the Prevention of the murder of Female Infants.

Preamble.

WHEREAS the murder of female infants is believed to be commonly

¹ Short title given by the Indian Short Titles Act, 1897 (14 of 1897).
For the Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 15; for Proceedings in Council, see *ibid*, Supplement, pp. 53, 131 and 473.

committed in certain parts of ¹[India]; and whereas it is necessary to make better provision for the prevention of the said offence; It is hereby enacted as follows:—

1. If it shall appear to the ²[State Government] that the said offence is commonly committed in any district, or by any class, or family, or persons residing therein, the ²[State Government] may, ^{3*} declare by notification published in the Official Gazette, and in such other manner as the ²[State Government] shall direct, that measures for the prevention of such offence shall be taken under this Act, in such district, or in respect of such class, or family or persons.

Power to take measures under Act in particular districts.

The notification shall define the limits of such district, or shall specify the class, or family or persons to whom such notification is to be deemed to apply.

2. When such notification shall have been published as aforesaid, it shall be lawful for the ²[State Government], subject to the provisions of section 3, from time to time to make rules consistent with this Act for all or any of the following purposes:—

Power to make rules.

- (1) for making and maintaining registers of births, marriages and deaths occurring in such district, or in or among the class, family or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district:
- (2) for the entertainment of any police-force in excess of the ordinary fixed establishment of police, or for the entertainment of any officers or servants, for the purpose of preventing or detecting the murder of female infants in such district, or in or among such class, family or persons, or for carrying out any of the provisions of this Act:
- (3) for prescribing how and by whom information shall be given to the proper officers of all births, marriages and deaths occurring or about to occur in such district, or in or among such class, family or persons:

This Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

the Districts of Hazáribágh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolhán in the District of Singbhum, see Gazette of India, 1881, Pt. I, p. 504. The District of Lohárdaga included at this time the present District of Palamau, which was separated in 1894; the district of Lohárdaga is now called the Ranchi district, see Calcutta Gazette, 1899, Pt. I, p. 44.

As to the operation of the Act in the Bombay Presidency, see foot-note to s. 7, *infra*.

¹ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

² Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937, for "L. G.".

³ The words "with the previous sanction of the Governor General of India in Council" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

(4) for the regulation and limitation of expenses incurred by any person to whom such notification applies on account of the celebration of marriage or of any ceremony or custom connected therewith:

(5) for regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable:¹

(6) for defining the duties of any officer or servant appointed to carry out any rule made under this section.

Confirmation and publication of rules. 3. No rule or alteration made under section 2 shall take effect until it shall have been ^{3*} ² * * * published ⁴ in the [Official Gazette].

Copies of every such rule shall be affixed in such places, and shall be distributed in such manner, as the ⁵[State Government] may direct.

Punishment for breach of rules. 4. Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Saving of prosecutions under other laws. 5. Nothing in this Act, or in any rule made and published as aforesaid, shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Power to place neglected children under supervision. 6. If it appears to the Magistrate of the District that any person, to whom the notification mentioned in section 1 applies, neglects to make proper provision for the maintenance of any female child for whose maintenance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the child under such supervision as he may think proper, and shall, if necessary, remove the child from the custody of such person.

The Magistrate of the District may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding fifty rupees as to such Magistrate shall seem reasonable, and, if such person wilfully neglects to comply with such order,

¹ As to the application of funds collected under the Act or the rules made thereunder for the educational benefit of those classes in the Ahmedabad District to whom the Act has been applied, see s. 1 of Bombay Act 3 of 1897 (to amend Act 8 of 1870).

² The words "confirmed by the Governor General of India in Council and" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

³ The words "in the Gazette of India and also" rep., *ibid.*

⁴ Subs. by the A. O. 1937 for "local Gazette".

⁵ See footnote 2 on pre-page.

1870 : Act XXIV.] *Oudh Taluqdars' Relief.*

such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by section 61¹ of the Code of Criminal Procedure.

Nothing in this section shall affect the powers of a Magistrate under section 316² of the same Code.

³7. This Act shall, in the first instance, extend only to the ⁴[⁵Uttar Pradesh], ⁶[Punjab] and Delhi; but ⁷* * * * ⁸* ⁹[* ¹⁰Extent of Act.

the ⁹[State Government] of ¹⁰[any other Part A State or Part C State] may, by notification published in ¹¹[Official Gazette] extend it to any part of the territories under the administration of that ⁹[State Government].]

THE OUDH TALUQDARS' RELIEF ACT.

CONTENTS.

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immoveable property freed from attachment.

¹ See now the Code of Criminal Procedure, 1898 (5 of 1898), ss. 386 and 387.

² See now s. 488, *ibid*.

³ The Act has been declared to extend and to have extended from the 21st December, 1870, to the Presidency of Bombay, by s. 2 of Bom. Act 3 of 1897 (to amend Act 8 of 1870).

⁴ Subs. by the A. O. 1948 for "North Western Provinces, to the Punjab and to Oudh".

⁵ Subs. by the A. O. 1950 for "United Provinces".

⁶ Subs. by the A. O. 1950 for "East Punjab".

⁷ The words "the Governor General of India in Council may by order extend it to any part of the territories (other than Oudh) under the immediate administration of the G. of I. and" rep. by the A. O. 1937.

⁸ Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the original words.

⁹ See footnote 2 on p. 623, *supra*.

¹⁰ Subs. by the A. O. 1950 for "any other Province". The word "Province" was subs. by the A. O. 1948 for "part of British India".

¹¹ Subs. by the A. O. 1937 for "local official Gazette".

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(I. Preliminary. II. Vesting Order.)

ACT NO. XXIV OF 1870¹.

[7th September, 1870.]

An Act to relieve from incumbrances the estates of Taluqdars in Oudh.

WHEREAS many of the taluqdars of Oudh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing: It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called the Oudh Taluqdars' Relief Act. Short title.

2. In this Act—

2 * * *

Interpreta-
tion clause.

I of 1869. "taluqdar" means a person whose name is entered in the first of the lists mentioned in the Oudh Estates Act, 1869, section 8:

"heir" means the person for the time being entitled under the same Act as heir to a taluqdar.

II.—Vesting Order.

3. Whenever, within twelve months after the passing of this Act, any taluqdar, Power to vest
management
of talukdar's
property in
officer
appointed by
State
Government.

or (when such taluqdar is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such taluqdar if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

applies in writing to the ³[State Government], stating that the taluqdar is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the ³[State Government] may, with the previous consent of the ⁴[Central Government], by order published in the ⁵[Official Gazette]

¹ For Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V. p. 161; for Proceedings in Council, see *ibid*, 1870, Supplement, pp. 99, 855 and 1128.

² The definition of "Chief Commissioner" rep. by the A. O. 1937.

³ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Chief Commissioner".

⁴ Subs. by the A. O. 1937 for "Governor General of India in Council".

⁵ Subs. by the A. O. 1937 for "local official Gazette".

II.—Vesting Order. III.—Duties of Manager.

appoint an officer (hereinafter called the manager), and vest in him the management of the immoveable property of or to which the taluqdar is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdar or his heir during the continuance of such management.

Effect of
order—
bar of suits
against
taluqdar.

4. On such publication, the following consequences shall ensue:
first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in ¹[a Part A State or a Part C State] shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

secondly, so long as such management continues,—

Taluqdar
freed from
arrest,

the taluqdar and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdar was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, ²[to the ³[Government]];

and his
moveable
property
freed from attach-
ment for
prior debts :

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in ¹[a Part A State or a Part C State] for or in respect of such debts and liabilities other than as aforesaid; and

thirdly, so long as such management continues,—

cessation of
his power to
alienate,

(a) the taluqdar and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom; and

immoveable
property
freed from
attachment.

(b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due or liabilities incurred ²[to the ³[Government]]].

III.—Duties of Manager.

Manager to
receive rents
and profits,

5. The manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

and pay
therefrom—
Government
demand,

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred ²[to the ³[Government]] in respect of the said property;

¹ Subs. by the A. O. 1950 for "The Provinces" which had been subs. by the A. O. 1948 for "British India".

² Subs. by the A. O. 1937 for "to Govt."

³ Subs. by the A. O. 1950 for "Crown".

(III.—Duties of Manager. IV.—Settlement of Debts.)

secondly, such annual sum as appears to the ¹[State Government] requisite for the maintenance of the taluqdar, his heir and their families: annual sum for maintenance of taluqdar and his heir, cost of repairs and improvements,

thirdly, the cost of such repairs and improvements of the property as appear necessary to the manager and are approved by the ¹[State Government]: cost of repairs and improvements,

and the residue shall be applied in discharge of the costs of the management and in settlement of such debts and liabilities of the taluqdar and his heir and their immoveable property as may be established under the provisions hereinafter contained. cost of management, and debts and liabilities.

IV.—Settlement of Debts.

6. On the publication of the order vesting in him the management of the said property, the manager shall publish in the ²[Official Gazette] a notice in English and Urdu, calling upon all persons having claims against the taluqdar or his immoveable property to notify the same in writing to such manager within three months from the date of the publication. Notice to claimants against taluqdar.

He shall also cause copies of such notice to be exhibited at the tahsildars' kachahris in the district or districts in which the said property lies, and at such other places as the manager thinks fit. Copies of notice to be exhibited.

7. Every such claimant shall along with his claim, present full particulars thereof. Claim to contain all particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim. Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant. Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case. Exclusion of documents not produced.

8. Every debt or liability (other than debts due, or liabilities incurred, ³[to the ⁴[Government]]) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred: Debt or liability not duly notified to be barred.

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Chief Commissioner".

² Subs. by the A. O. 1937 for "local official Gazette".

³ Subs. by the A. O. 1937 for "to Govt.".

⁴ Subs. by the A. O. 1950 for "Crown".

(IV.—Settlement of Debts.)

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 6 and 7, the manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdar and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

10. An appeal against any refusal, admission or determination under section 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of such debts and liabilities has been finally determined, the manager shall prepare and submit to the ¹[State Government] a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the ¹[State Government], shall be carried into effect.

Power to return scheme for revision.

Until such approved is given, the ¹[State Government] may, as often as ²[it] thinks fit, send back such scheme to the manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of taluqdar to property.

12. When all such debts and liabilities have been discharged, or if, within six months after the publication of the order mentioned in section 3, the ¹[State Government] thinks that the provisions of this Act should not continue to apply to the case of the taluqdar or his heir,

the taluqdar or his heir shall be restored to the possession and enjoyment of his immovable property, or of such part thereof as has not been sold by the manager under the power contained in section 19, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Revival of barred proceedings and debts.

Where the taluqdar or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in ³[section 4] (so far as they relate to debts and liabilities not settled by the manager),

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Chief Commissioner".

² Subs. by the A. O. 1937 for "he".

³ Subs. by the Amending Act, 1891 (12 of 1891), s. 2 (2), for "section 3".

(IV.—Settlement of Debts. V.—Powers of Manager.)

and the debts and liabilities barred by section 8, shall be revived, and any mortgagee dispossessed under section 17 shall be re-instated unless his claim under the mortgage has been satisfied ;

and, in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 3 shall be excluded.

V.—Powers of Manager.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied. Power to call for further particulars.

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.¹ Power to summon witnesses and compel production of documents.

15. The manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act. Power to administer oaths.

16. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. Investigation to be deemed judicial proceeding.

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And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code. Statements of persons examined to be evidence.

17. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdar would have had for such purpose if this Act had not been passed. Manager to have powers of taluqdar.

And if such property, or any part thereof, be in the possession of any mortgagee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour ; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained. Power to remove mortgagee in possession.

18. Subject to the rules made under section 20, the manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in Power to lease.

¹ See now the Code of Civil Procedure, 1908 (5 of 1908).

(V.—Powers of Manager. VI.—Miscellaneous.)

possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to
raise money
by mortgage
or sale.

19. The manager, with the previous assent of the ¹[State Government], shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdar and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's
receipts.

And the receipt of the manager for any moneys paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exerciseable until six months have elapsed from the publication of the order mentioned in section 3.

VI.—Miscellaneous.

Power to
make rules.

20. The ¹[State Government] may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when ²* * * published in the ³[Official Gazette], shall have the force of law.

Power to
appoint new
managers.

21. Whenever the ¹[State Government] thinks fit, ⁴[it] may appoint any Officer to be a manager in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

¹ Subs. by the A. O. 1950 for "Provincial Government" which had been subs. by the A. O. 1937 for "Chief Commissioner".

² The words "approved by the Governor General of India in Council and" rep. by the A. O. 1937.

³ Subs. by the A. O. 1937 for "local official Gazette".

⁴ Subs. by the A. O. 1937 for "he".

(VI.—Miscellaneous.)

XLV of 1860 22. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. Managers to be public servants.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits.

VII of 1870. 24. No petition, application, memorandum of appeal or other proceeding under this Act shall be chargeable under the Court-fees Act, 1870. Petitions etc., under Act exempt from court-fees.

25. Nothing in this Act precludes the Courts of ¹[Uttar Pradesh] having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits ; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Oudh in respect of certain suits.

THE CATTLE-TRESPASS ACT, 1871.

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SCHEDULE.

(Chapter I.—Preliminary.)

ACT NO. I OF 1871.¹

[13th January, 1871.]

An Act to consolidate and amend the law relating to Trespasses by Cattle.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and extent.

²[1. (1) This Act may be called the Cattle-trespass Act, 1871 ; and

(2) It extends³ to ⁴[the whole of India except Part B States], except the presidency-towns and such local areas as the ⁵[State Government], by notification in the Official Gazette, may from time to time exclude from its operation.]

6* * *

¹ For the Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 310 ; for Proceedings in Council, see *ibid*, Supplement, pp. 1150, 1200, 1290, and Supplement, 1871, p. 178.

This Act has been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 ; in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

This Act has been amended locally—

in Assam by Assam Act 1 of 1936 ;
in Bengal by Bengal Act 5 of 1934 ;
in Bombay by Bombay Acts 9 of 1924, 4 of 1926 and 5 of 1931 ;
in C. P. by C. P. Acts 12 of 1935 and 22 of 1937 ; and
in Sambalpur District by Orissa Act 6 of 1939.

² Subs. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 1, for the original s. 1.

³ This Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribágh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolhan in the District of Singbhum [Gazette of India, 1881, Pt. I, p. 504 ; the District of Lohárdaga included at this time the present District of Palamau, which was separated in 1894 ; the District of Lohárdaga is now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44] ; and the North Western Provinces Taráí, Gazette of India, 1876, Pt. I, p. 505 ; the Scheduled Districts in Ganjam and Vizagapatam, *ibid*, 1899, Pt. I, p. 720. This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

⁴ Subs. by the A. O. 1950 for “all the Provinces of India” which had been subs. by the A. O. 1948 for “the whole of British India”.

⁵ Subs. by the A. O. 1950 for “Provincial Govt.” which had been subs. by the A. O. 1937 for “L. G.”.

⁶ Sub-section (3) of s. 1 rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

(Chapter I.—Preliminary. Chapter II.—Pounds and Pound-keepers.)

2. [Repeal of Acts. References to repealed Acts.] Repealed by the Repealing Act, 1938 (I of 1938).

3. In this Act,—

Interpretation-clause.

“officer of police” includes also village-watchmen, and

“cattle” includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids, ¹[and

“²local authority” means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

“local fund” means any fund under the control or management of a local authority.]

CHAPTER II.

POUNDS AND POUND-KEEPERS.

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the ³[State Government], from time to time directs. Establishment of pounds.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

5. The pounds shall be under the control of the Magistrate of the District ; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle. Control of pounds.
Rates of charge for feeding impounded cattle.

6. ⁴[The ⁵[State] Government shall appoint a pound-keeper for every pound. Appointment of pound-keepers.

¹ Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 2.

² Cf. definition in s. 3 (28) of the General Clauses Act, 1897 (10 of 1897), which applies to all Acts passed after the 14th January 1887.

³ See footnote 5 on prepage.

⁴ Subs. by the A. O. 1937 for the following:—

“The Magistrate of the District shall also appoint for each pound a pound-keeper:

Provided that, in the Presidency of Fort St. George, the heads of villages and, in the Presidency of Bombay, the police pátils, or (where there are no police pátils) the heads of villages shall be *ex-officio* the keepers of village pounds.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Any pound-keeper may hold simultaneously any other office under Government.

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.”

⁵ Subs. by the A. O. 1950 for “Provincial”.

(Chapter II.—Pounds and Pound-keepers. Duties of Pound-keepers.
Chapter III.—Impounding Cattle.)

Pound-keepers may hold other offices.

Any pound-keeper may hold simultaneously any other office under the ¹[Government].

Pound-keepers to be public servants.

Every pound-keeper shall be deemed to be a public servant within the meaning of the Indian Penal Code.]

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Duties of Pound-keepers.

To keep registers and furnish returns.

7. Every pound-keeper shall keep such registers and furnish such returns as the ²[State Government] from time to time directs.

To register seizures.

8. When cattle are brought to a pound, the pound-keeper shall enter in his register,—

(a) the number and description of the animals,

(b) the day and hour on and at which they were so brought,

(c) the name and residence of the seizer, and

(d) the name and residence of the owner, if known,
and shall give the seizer or his agent a copy of the entry.

To take charge of and feed cattle.

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER III.

IMPOUNDING CATTLE.

Cattle damaging land.

³10. The cultivator or occupier of any land,
or any person who has advanced cash for the cultivation of the crop or produce on any land,
or the vendee or mortgagee of such crop or produce or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and ⁴[send them or cause them to be sent within twenty-four hours] to the pound established for the village in which the land is situate.

Police to aid seizures.

All officers of police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures.

¹ Subs. by the A. O. 1950 for "Crown".

² See footnote 5 on p. 636 *supra*.

³ This section has been subs. in its application to the C. P. by the Cattle-trespass (C. P. Amendment) Act, 1935 (C. P. Act 12 of 1935).

⁴ Subs. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 3, for "take them or cause them to be taken without unnecessary delay".

(Chapter III.—Impounding Cattle. Chapter IV.—Delivery or Sale of Cattle.)

¹11. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like and officers of police, may seize or cause to be seized any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments or found straying thereon,

Cattle
damaging
public roads,
canals and
embank-
ments.

and shall ²[send them or cause them to be sent within twenty-four hours] to the nearest pound.

³[12. For every head of cattle impounded as aforesaid, the pound-keepers shall levy a fine in accordance with the scale for the time being prescribed by the ⁴[State Government] in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas.

Fines for
cattle
impounded.

All fines so levied shall be sent to the Magistrate of the District through such officer as the ⁴[State Government] may direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.]

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

13. If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

Procedure
when owner
claims the
cattle and
pays fines
and charges.

The owner or his agent, on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Procedure if
cattle be not
claimed
within a
week.

¹ As to the application of s. 11 to forests, see the Indian Forests Act, 1927 (17 of 1927), s. 70 ; and the Assam Forest Regulation, 1891 (7 of 1891), s. 66 ; to railways, see the Indian Railways Act, 1890 (9 of 1890), s. 125 (4). This section has been amended in its application to the C. P. by C. P. Act 12 of 1935.

² Subs. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 4, for "take them without unnecessary delay".

³ Subs. by the Cattle-trespass (Amendment) Act, 1921 (17 of 1921), s. 2, for the original s. 12. See s. 71 of the Indian Forest Act, 1927 (17 of 1927) under which the Provincial Government may fix a different scale of fines for cattle impounded under s. 70 of that Act.

⁴ See footnote 5 on p. 636 *supra*.

(Chapter IV.—Delivery or Sale of Cattle.)

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

¹ Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

Delivery to owner disputing legality of seizure but making deposit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

Procedure when owner refuses or omits to pay the fines and expenses.

16. If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer at such place and time, and subject to such conditions, as are referred to in section 14.

Deduction of fines and expenses.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds.

The remaining cattle and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account showing—

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the amount of fines and charges incurred,
- (d) the number of cattle sold,
- (e) the proceeds of sale, and
- (f) the manner in which those proceeds have been disposed of

Receipts.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

¹ The proviso has been amended in its application to the Bombay Presidency by Bom. Act 5 of 1931.

(Chapter IV.—Delivery or Sale of Cattle. Chapter V.—Complaints of
Illegal Seizure or Detention.)

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, ¹[be deemed to hold them as part of the revenues of the ²[State].]

³18. [Application of fines and unclaimed proceeds of sale.] Rep. by the A. O. 1937.

19. No officer of police or other officer or pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

⁴[CHAPTER V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint⁵ to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

¹ Subs. by the A. O. 1937 for "dispose of them as hereinafter provided".

² Subs. by the A. O. 1950 for "Province".

³ This section read as follows:—

"Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be paid—

(a) the salaries allowed to pound-keepers under the orders of the Local Government;

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act; and the surplus (if any) shall be applied under orders of the Local Government to the construction and repair of roads and bridges and to other purposes of public utility."

⁴ Subs. for the original Ch. V by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 6.

⁵ The term "offence" as defined by s. 4 (o) of the Code of Criminal Procedure, 1898 (5 of 1898), includes any act in respect of which a complaint may be made under this section.

Offences under this section may be tried in a summary way, see Act 5 of 1898, s. 260 (1) (m).

(Chapter V.—Complaints of Illegal Seizure or Detention. Chapter VI.—Penalties.)

Procedure on complaint.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

Compensation for illegal seizure or detention.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle,

Release of cattle.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Recovery of compensation.

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.]¹

CHAPTER VI.

PENALTIES.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

Recovery of penalty for mischief committed by causing cattle to trespass.

25. Any fine imposed ³[under the next following section or] for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of

¹ See ss. 63 to 70 of the Indian Penal Code (45 of 1860), and s. 386 of the Code of Criminal Procedure, 1898 (5 of 1898); cf. also, s. 25 of the General Clauses Act, 1897 (10 of 1897).

² As to the application of s. 25 in the case of cattle-trespassing on a railway, See the Indian Railways Act, 1890 (9 of 1890), s. 125 (3).

³ Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 7.

(Chapter VI.—Penalties. Chapter VII.—Suits for Compensation.)

the offence, or were only in his charge when the trespass was committed.

26. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road¹, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

Penalty for damage caused to land or crops or public roads by pigs.

²[The ³[State Government], by notification in the Official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty rupees" were substituted for the words "ten rupees," or as if there were both such reference and such substitution.]

* * * * *

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Penalty on pound-keeper failing to perform duties.

Such fines may be recovered by deductions from the pound-keeper's salary.

28. All fines recovered under section 25, section 26 or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

Application of fines recovered under section 25, 26 or 27.

CHAPTER VII.

SUITS FOR COMPENSATION.

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

Saving of right to sue for compensation.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Set-off.

¹"Public road" in s. 26 includes a railway—see the Indian Railways Act, 1890 (9 of 1890), s. 125 (4).

²Ins. by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 8.

³See footnote 5 on p. 636 *supra*.

⁴The last paragraph of s. 26 rep. by the Repealing and Amending Act, 1914 (10 of 1914).

⁵This section has been amended in its application to the C. P. by C. P. Act 12 of 1935.

(Chapter VIII.—Supplemental.)

Coroners.

[1871 : Act IV.]

CHAPTER VIII.

SUPPLEMENTAL.

Power for
State Govern-
ment to
transfer
certain
functions to
local
authority
and direct
credit of
surplus
receipts to
local fund.

31. The ²[State Government] may, from time to time by notification in the Official Gazette,—

- (a) transfer to any local authority ³within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the ³[State Government] or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, ⁴* *⁵.

[SCHEDULE.] Rep. by the Repealing Act, 1938 (I of 1938).

THE CORONERS ACT, 1871.

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2. [Repealed.]

¹Ch. VIII was added by the Cattle-trespass Act (1871) Amendment Act, 1891 (1 of 1891), s. 9.

²See footnote 5 on p. 636 *supra*.

³For special enactments *see*, as to the C. P., the C. P. Local Self-Government Act, 1920 (C. P. 4 of 1920), s. 21, cl. (h); and as to the Punjab, the Punjab District Boards Act, 1883 (20 of 1883), s. 20, cl. (n).

⁴Originally there were the following words:—"or (b) direct that the whole or any part of the surplus accruing in any district under s. 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district, [and may from time to time, by notification in the official Gazette, cancel or vary any notification under this section]". The bracketed words were rep. by the Repealing and Amending Act, 1914 (10 of 1914) and the rest by the A. O. 1937.

⁵A new s. 32 has been ins. in Bengal by Ben. Act 5 of 1934.

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-

FIRST SCHEDULE.—[*Repealed.*]

SECOND SCHEDULE.—Form of Inquisition.

(Chapter I.—Preliminary. Chapter II.—Appointment of Coroners.)

ACT NO. IV OF 1871.¹

[27th January, 1871.]

An Act to consolidate and amend the laws relating to Coroners.

WHEREAS it is expedient to consolidate and amend the laws relating Preamble.
to Coroners in the Presidency-towns; It is hereby enacted as
follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Coroners Act, 1871.

Short title.

2* * * * *

2. [Repeal of enactments.] Rep. by the Repealing Act, 1873 (XII of 1873).

CHAPTER II.

APPOINTMENT OF CORONERS.

³[3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.] Coroners of Calcutta and Bombay.

4. Every such officer shall be appointed and may be suspended or removed by the ⁴[State Government].⁵* * * * * Their appointment, suspension and removal.

¹ For Statement of Objects and Reasons, see Gazette of India, 1870, Pt. V, p. 295; for Preliminary Report of the Select Committee, see *ibid*, p. 351; and for Proceedings in Council, see *ibid*, Supplement, pp. 1077, 1195, 1298; and *ibid*, 1871, pp. 198 and 207.

This Act has been amended in the Presidency-town of Bombay by Bombay Act 13 of 1930, in the Bombay Province by Bombay Act 25 of 1942, and in Bengal by Bengal Act 7 of 1944.

² The local extent and commencement clauses of this section were rep., respectively, by the Coroners Act, 1881 (10 of 1881), s. 2, and the Repealing Act, 1874 (16 of 1874).

³ Subs. by the Coroners (Madras) Act, 1889 (5 of 1889), s. 2, for the original section.

⁴ See footnote 5 on p. 636 *supra*.

⁵ The words "Every person now holding such office shall be deemed to have been appointed under this Act" rep. by the Amending Act, 1891 (12 of 1891).

(Chapter II.—Appointment of Coroners. Chapter III.—Duties and Powers of Coroners.)

Coroners to be public servants.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

Power to hold other offices.

6. Any Coroner may hold simultaneously any other office under Government.

7. [Oath to be taken by Coroner.] Rep. by the Indian Oaths Act, 1873 (X of 1873).

CHAPTER III.

DUTIES AND POWERS OF CORONERS.

Jurisdiction to inquire into death.

8. When a Coroner ¹[has reason to believe] that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

XLV of 1860

Coroner to be sent for when prisoner dies.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is ²[disposed of]. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

Power to hold inquests on bodies within local limits wherever cause of death occurred.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

¹ Subs. for "is informed" by the Coroners Act, 1881 (10 of 1881), s. 5.

² Subs. for "buried" by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 2.

(Chapter III.—Duties and Powers of Coroners.)

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person either for the purpose of taking an original inquisition where none has been taken, or a further inquisition ¹[where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition]. Power to order body to be disinterred.

12. On receiving notice of any death mentioned in section 8, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of inquiring when, how and by what means the deceased came by his death. Summoning jury.

Any inquest under this Act may be held on a Sunday.

Inquest may be on Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors. Opening Court.

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body. Jurors to be sworn.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires: View of body.

²[Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing.]

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death. Proclamation for witnesses.

17. ³[It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall inquire of such circumstances and the cause of death, and, if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest.] Summoning witnesses.

Any person disobeying such summons shall be deemed to have committed an offence under section 174, section 175 or section 176 of the Indian Penal Code, as the case may be.]

XLV of 1860.

¹ Subs. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 3, for "where the first was insufficient".

² Ins. by s. 4, *ibid.*

³ Subs. by the Coroners Act, 1881 (10 of 1881), s. 6, for the original paragraphs.

(Chapter III.—Duties and Powers of Coroners.)

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of '[Part IX of the Prisoners Act, 1900].

III of 1900.

*Post-mortem
examina-
tions.*

18. The Coroner may direct the performance of a *post-mortem* examination with or without an analysis of the contents of the stomach or intestines by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

*Report of
Chemical
Examiner.*

²[18A. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898.]

*Evidence to
be on oath.
Evidence on
behalf of
accused.*

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Interpreter.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

*Questions
suggested
by jury.*

After each witness has been examined, the Coroner shall inquire whether the jury wish any further questions to be put to the witness, and, if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

*Coroner to
take down
evidence in
writing.*

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

*Witnesses to
sign deposi-
tions.*

Any witnesses refusing so to sign shall be deemed to have committed an offence under section 180 of the Indian Penal Code.

XLV of 1860

*Coroner to
subscribe de-
positions.*

Every such deposition shall be subscribed by the Coroner.

*Coroner a
Magistrate.*

³[For the purposes of section 26 of the Indian Evidence Act, 1872, I of 1872, a Coroner shall be deemed to be a Magistrate.]

*Adjourn-
ment of in-
quest.*

21. The Coroner may adjourn the inquest from time to time, and from place to place.

*Jurors' re-
cognizances.*

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed,

¹ Subs. by the Coroners (Amendment) Act, 1908 (4 of 1908), for "Act No. XV of 1869 (to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them)."

² Ins. by s. 6, *ibid*.

³ Ins. by the Coroners Act, 1881 (10 of 1881), s. 7.

(Chapter III.—Duties and Powers of Coroners.)

and notify to the witnesses when and where the inquest will be proceeded with.

The amount of such recognizances shall in each case be fixed by the Coroner ¹[and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31].

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict. Coroner to sum up to jury.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority. Coroner to draw up inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth— Contents of inquisition.

- (1) where, when and before whom the inquisition is holden,
- (2) who the deceased is,
- (3) where his body lies,
- (4) the names of the jurors, and that they present the inquisition upon oath,
- (5) where, when and by what means the deceased came by his death, and
- (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

²[25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in ³[a Part A State or a Part C State] the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police.] Procedure where death is found due to an act amounting to an offence.

⁴[26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial.] Power to arrest and commit for trial.

27. [Power to accept bail.] Rep. by the Coroners (Amendment) Act, 1908 (IV of 1908), s. 10.

¹ Ins. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 7.

² Subs. by s. 8, *ibid.*, for the original section.

³ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

⁴ Subs. by Act 4 of 1908, s. 9, for the original section.

(Chapter III.—Duties and Powers of Coroners. Chapter IV.—
Coroners' Juries.)

Warrant for
burial.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the ¹[disposal] of the body on which the inquest has been taken.

Inquisitions
not to be
quashed for
want of form.

29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

Amendment
of inquisi-
tion.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of
jurisdiction
as to treasure
trove,
wrecks,
etc.

30. It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se.

A *felo de se* shall not forfeit his goods.

*Deodands.*¹

Deodands are hereby abolished.

CHAPTER IV.

CORONERS' JURIES.

Fine on
juror neglect-
ing to
attend.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

Certificate as
to defaulting
juror.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

Service of
copy of
certificate.

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

Levy of fine.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

Jurors not to
be summoned
twice within
the year.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

¹ Subs. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 11, for "burial".

(Chapter IV.—Coroners' Juries. Chapter V.—Rights and Liabilities of Coroners.)

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest. Jurors on inquest on prisoner.

CHAPTER V.

RIGHTS AND LIABILITIES OF CORONERS.

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the ¹[State Government]. Coroner's salary.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury, and the like, shall be repaid to him by the ²[State Government]. Disbursements to be repaid.

38. Every Coroner may from time to time, with the previous sanction of the ³[State Government], appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests ³* * *. Power to appoint deputy.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made. Revocation of appointment.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror. Exemption from serving on juries.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty. Privilege from arrest.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose. Penalty for failure to comply with Act.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted ⁴ * * * after tender of sufficient amends. Limitation of suits.

¹ Subs. by the A. O. 1950 for "Provincial Government". These words were subs. by the A. O. 1937 for "L. G." which had been subs. for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² See footnote 5 on p. 636 *supra*.

³ The words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of office" rep. by the Indian Oaths Act, 1873 (18 of 1873).

⁴ The words "after the expiration of three months from such fact or failure nor" rep. by the Indian Limitation Act, 1871 (9 of 1871).

(First Schedule—Enactments repealed. Second Schedule—Form of Inquisition.)

Dehra Dun.

[1871 : Act XXI.]

FIRST SCHEDULE. [Enactments repealed.] Rep. by the Repealing Act, 1873 (XII of 1873).

SECOND SCHEDULE.

FORM OF INQUISITION.

AN INQUISITION taken at _____ on the _____ day of _____ 187 _____ before *E F*, Coroner of _____¹ [in the case of *A B* deceased] upon the oath of *G H, I J, K L*, and *M N*, then and there duly sworn and charged to inquire when, how and by what means the said *A B* came to his death.

We, the said jurors, find unanimously [or by a majority of _____] that the death of the said *A B* was caused, on or about the _____ day of _____ 187 _____, by [here state the cause of death as in the following examples]:—

1. [Cases of homicide]—a blow on the head with a stick inflicted on him by *C D*, under such circumstances that the act of *C D* was justifiable [or accidental] homicide.
—a stab on the heart with a knife inflicted on him by *C D* under such circumstances that the act of *C D* was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or a rash or negligent act not amounting to culpable homicide].
2. [Cases of accident]—falling out of a boat into the river Hughli, whereby he was drowned.
—a kick from a horse which fractured his skull and ruptured blood-vessels in his head
3. [Cases of suicide]—shooting himself through the head with a pistol.
—arsenic, which he voluntarily administered to himself.
4. [Cases of sudden death by means unknown]—disease of the heart.
—apoplexy.
—sunstroke

And so say the jurors upon their oath aforesaid.

Witness our hands. *E F*, Coroner of _____
G H, I J, K L, M N, O P (jurors).

ACT No. XXI OF 1871².

[11th July, 1871.]

An Act to give validity to the operation of the General Regulations and Acts within the Dehra Dun.

Preamble.

WHEREAS it is necessary to give validity to the operation of the general Regulations and Acts within the district under the Superin-

¹ Subs. for "on view of the body of *A B* then and there lying dead" by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 12.

² For Statement of Objects and Reasons, see Gazette of India, 1871, Pt. V, p. 221; for Proceedings in Council, see *ibid.*, Supplement, pp. 907 and 1050.

tendent of the Dehra Dun ¹* * * * *; it is hereby enacted as follows:—

1. The Regulations and Acts now in force in the district of Saharanpur are hereby declared to extend to the said district of Dehra Dun ²* *.

Extension of Regulations and Acts in force in Saharanpur to Dehra Dun.

2. The High Court and the Board of Revenue of ³[Uttar Pradesh] shall exercise ⁴* * * * * respectively, in the said district, all the powers which the said High Court or Board of Revenue are at present, respectively, authorized to exercise in any part of ⁵[Agra].

Jurisdiction of High Court and Board of Revenue over Dehra Dun.

3. The District Court of Saharanpur shall be ⁶* * * the District Court of such district until the ⁷[State Government] otherwise directs ⁸* * *.

District Court of Saharanpur to be District Court of Dehra Dun.

4. Nothing in this Act shall apply to that portion of the Dehra Dun District called ⁹Jaunsar Bawar ¹⁰* * * * *.

Exemption of Jaunsar Bawar.

THE PENSIONS ACT, 1871.

ACT No. XXIII OF 1871.¹¹

[8th August 1871.]

An Act to consolidate and amend the law relating to Pensions and Grants by Government of money or land-revenue.

WHEREAS it is expedient to consolidate and amend the law relating Preamble.

¹ The words "and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts" rep. by the Repealing Act, 1874 (16 of 1874).

² The words "and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment, order or proceeding was given, passed or had, was not in force at the time of such judgment, order or proceeding, or on the ground of a defect of jurisdiction in any Court or office" rep. by the Amending Act, 1891 (12 of 1891).

³ Subs. by the A. O. 1950 for "the North-Western Provinces".

⁴ The words "and shall be deemed to have been heretofore authorized to exercise" rep., *ibid.*

⁵ Subs. by the A.O. 1950 for "the North-Western Provinces".

⁶ The words "deemed to have been heretofore the District Court of the said district of Dehra Dun and" rep., *ibid.*

⁷ See footnote 5 on page 636 *supra*.

⁸ The words "and may subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act" rep. by the Amending Act, 1891 (12 of 1891).

⁹ "Jaunsar Bawar" is one of the scheduled districts of the Province of Agra, see the Scheduled Districts Act, 1874 (14 of 1874), First Schedule, Pt. IV.

¹⁰ The words "and referred to in s. 11 of Act XXIV of 1864" rep. by the Amending Act, 1891 (12 of 1891).

¹¹ For the Statement of Objects and Reasons, see Gazette of India, 1871, Pt. V, p. 141; for Proceedings in Council, see *ibid.*, 1871, Supplement, pp. 314, 401, 683, 1056, 1147.

(I.—Preliminary. II.—Rights to Pensions.)

to pensions and grants by Government of money or land-revenue ;
It is hereby enacted as follows:—

I.—Preliminary.

- Short title. 1. This Act may be called the Pensions Act, 1871.
- Extent of Act. It extends to ¹[the whole of India except Part B State].
- 2 * * * * *
- 3 * * * *
- Interpretation-section. 3. In this Act, the expression “grant of money or land-revenue” includes anything payable on the part of Government in respect of any right, privilege, perquisite or office.
- Definition. ⁴[3A. The expression “the appropriate Government” means, in relation to ⁵[Union] pensions, the Central Government, and in relation to other pensions, the ⁶[State] Government.]

II.—Rights to Pensions.

- Bar of suits relating to pensions. 4. Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, what-

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872).

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely:—

The Districts of Hazáribagh, Lohárdaga and Mánbhum, and Pargana Dhalbhum and the Kolhán in the District of Singbhum. See Gazette of India, 22nd October, 1881, Pt. I, p. 504. The District of Lohárdaga included at this time the present District of Palamau, which was separated in 1894. The District of Lohárdaga is now called the Ranchi District, Calcutta Gazette, 1899, Pt. I, p. 44.

The Act applies to certain allowances known as the Oudh Wasikas as if they were pensions of the classes referred to in sections 4 and 11 of the Act. See the Oudh Wasikas Act, 1886 (21 of 1886), s. 2.

It has been amended in its application to U. P. by U. P. Act 12 of 1922.

This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

¹Subs. by the A. O. 1950 for “all the Provinces of India” which had been subs. by the A. O. 1948 for “the whole of British India”.

²The words “and it shall come into force on the date of the passing thereof” rep. by the Repealing and Amending Act, 1914 (10 of 1914).

³The words “but not so as to affect any suit in respect of a pension or grant of money or land-revenue which may have been instituted before such date” rep. by the Amending Act, 1891 (12 of 1891).

⁴Ins. by the A. O. 1937.

⁵Subs. by the A. O. 1950 for “Federal”

⁶Subs. by the A. O. 1950 for “Provincial”.

(II.—Rights to Pensions.)

ever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted.

5. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the ¹[appropriate Government]; and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue-authority may, subject to the general control of the ¹[appropriate Government], from time to time prescribe in this behalf.

Claims to be made to Collector or other authorized officer.

6. A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Civil Court empowered to take cognizance of such claims.

7. Nothing in sections 4 and 6 applies to—

Pensions for lands held under grants in perpetuity.

(1) any inám of the class referred to in section 1 of Madras Act No. IV of 1862²;

(2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

¹ Subs. by the A. O. 1937 for "L. G.".

² i.e., "ináms of the classes described in cl. 1, s. 2, [Mad.] Regulation 4 of 1831, which have been, or shall be, enfranchised by the Inám Commissioner and converted into freeholds in perpetuity, or into absolute freeholds in perpetuity." The classes so described are "hereditary or personal grants of money or of land-revenue, however denominated, conferred by the authority of the Governor in Council [or which, having been made by any Native Govt. have been confirmed or continued by the British Govt.—Act 31 of 1836] in consideration of services rendered to the State, or in lieu of resumed offices or privileges, or of zamindáris or páleiyams forfeited or held under attachment or management by the officers of Govt., or as a yaumiá or charitable allowance, or as a pension".

(III.—Mode of Payment. IV.—Miscellaneous.)

(III.—Mode of Payment.)

Payment to be made by Collector or other authorized officer.

8. All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue authority.

Saving of rights of grantees of land-revenue.

9. Nothing in sections 4 and 8 shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

Commutation of pensions.

10. The ¹[appropriate Government] may, with the consent of the holder, order the whole or any part of his pension or grant of money or land revenue to be commuted for a lump sum on such terms as may seem fit.

(IV.—Miscellaneous.)

Exemption of pension from attachment.

²11. No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

and no money due or to become due on account of any such pension or allowance,

shall be liable to seizure, attachment or sequestration by process of any Court in ³[Part A States and Part C States], at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

⁴[This section applies in ³[Part A States and Part C States] also to pensions granted or continued,⁵ after the separation of Burma from India, by the Government of Burma.]

Assignments, etc., in anticipation of pension, to be void.

12. All assignments, agreements, orders, sales, and securities of every kind made by the person entitled to any pension, pay or allow-

¹ Subs. by the A. O. 1937 for "L. G.".

² See also s. 60, cl. (g) of the Code of Civil Procedure, 1908 (Act 5 of 1908).

³ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

⁴ Ins. by the A. O. 1937.

⁵ i.e., on or after the 1st April 1937.

(IV.—Miscellaneous. Schedule.)

ance mentioned in section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

13. Whoever proves to the satisfaction of the ¹[appropriate Government] that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months. Reward to informers.

14. ²[In each ³[State] the Chief Controlling Revenue-authority may, with the consent of the ¹[appropriate Government], from time to time make rules consistent with this Act respecting all or any of the following matters:— Power to make rules.

- (1) the place and times at which, and the person to whom, any pension shall be paid ;
- (2) inquiries into the identity of claimants ;
- (3) records to be kept on the subject of pensions ;
- (4) transmission of such records ;
- (5) correction of such records ;
- (6) delivery of certificates to pensioners ;
- (7) registers of such certificates ;
- (8) reference to the Civil Court, under section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government ;

and generally for the guidance of officers under this Act.

All such rules shall be published in the ⁴[Official Gazette], and shall thereupon have the force of law.

SCHEDULE. Rep. by the Repealing Act, 1938 (1 of 1938).

¹ Subs. by the A. O. 1937 for "L. G.".

² Ins. by the A. O. 1937.

³ Subs. by the A. O. 1950 for "Province".

⁴ Subs. by the A. O. 1937 for "local official Gazette".

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